



*Transcending Boundaries*

The background of the entire page is a monochromatic blue-tinted photograph of a grand classical building, likely a state capitol. It features a large central dome with a lantern on top, a wide portico with many tall columns, and a set of stairs leading up to the entrance. The image is framed by a white border.

**Preliminary  
Energy & Environment  
Legislative Digest  
2023**

## MISSION STATEMENT

Through innovations in energy and environmental policies, programs, and technologies, the **Southern States Energy Board** enhances economic development and the quality of life in the South.





*Transcending Boundaries*

# **Preliminary Energy & Environment Legislative Digest**

**A Guide to Energy and Environmental  
Legislation in the South**

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

**Published June 2023**

**Introduction by  
South Carolina's Rep. William E. "Bill" Sandifer, III  
Vice Chair**

## Acknowledgments

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

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

This version is current as of June 10, 2023.

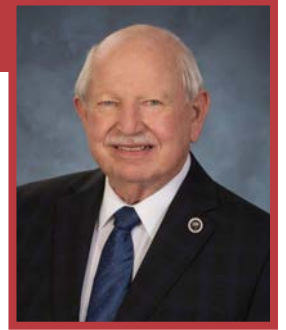
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# INTRODUCTION

## Representative William E. "Bill" Sandifer, III

*Vice Chair, Southern States Energy Board*



As the Vice Chair of the Southern States Energy Board (SSEB), I am honored to introduce this preliminary edition of the Energy & Environment Legislative Digest—a compendium of energy and environmental (E&E) legislation enacted by the Board's 18 member states and territories during their 2023 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 Digest stands as a reflection of the legislative trends in its member states. We strive for accuracy and inclusion—if you have any suggestions or comments prior to the publication of the final version, please let a member of the SSEB staff know.

So far this year, our legislative members have passed a total of 513 bills. The Texas Legislature, which meets every two years, had a very busy session passing more than 70 E&E bills included in this preliminary document with many more to come; dozens of bills passed in this year's session were signed by Texas's Governor Greg Abbott after this document's cut-off date of June 10. The legislatures in Florida, Louisiana, and North Carolina also had a handful of bills that were enacted past the cut-off for inclusion in this edition. All of those bills and many more from around the nation will appear in the final iteration of this year's Digest available this September at our 63<sup>rd</sup> Annual Meeting in Greenville, South Carolina.

If you prefer a digital experience, all of the bills contained within the Preliminary Digest may be viewed using interactive categories and maps on our website. Visit [sseb.org/publications/interactive-digest](https://sseb.org/publications/interactive-digest) to review our Interactive Digest. It is kept up to date with bills as they pass, which means it serves as a more timely resource than this printed preliminary version.

Precise bill summaries are categorized for easy comparison within. Some bills may cover a wide variety of issues and fall into multiple categories. In order to keep the size of the printed publication reasonable, we strive to place bills in their most relevant category, but if you utilize our Interactive Digest online, you will find that bills may fit into multiple categories.

Energy measures are divided among the following categories: Carbon Capture & Storage, Critical Minerals & Rare Earth Elements, Cybersecurity & Digital Technology, Efficiency & Weatherization, Emergency Management & Homeland Security, Fossil Energy, Nuclear Energy, Renewable Energy, Reorganization & Coordination, and Utilities. To date, 222 energy-related bills have passed in our member states and territories this year.

Environmental measures are divided into the following categories: Coastal Zone Management, Emergency Management & Homeland Security, Emissions & Pollution, Environmental Health & Justice, Hazardous Waste, Inland Water Quality & Management, Land Management, Reorganization & Coordination, and Solid Waste. These categories combined for 291 pieces of legislation.

We observed a number of legislative trends scattered across our membership. On energy, legislatures put a focus on hydrogen, nuclear, and offshore wind measures. As with previous years, flood and wastewater management, solid waste issues, and emergency planning and response were key environmental legislative trends.

This year, we continued to observe a trend of bills addressing electric vehicle (EV) oversight, taxation, and funding for associated infrastructure needs. The legislatures of **Arkansas, Georgia, Maryland,**



**Mississippi, Oklahoma, South Carolina, Tennessee, Texas, and Virginia** all enacted various laws regulating EVs.

States across the nation are continuing to vie for regional clean hydrogen hub funding to be awarded under 2021's Bipartisan Infrastructure Law. **Alabama, Georgia, Kentucky, Mississippi, Oklahoma, Tennessee, Virginia, and West Virginia** all passed laws studying, regulating, or encouraging the use of hydrogen.

Last year, a small number of laws addressing environmental, social, and corporate governance (ESG), corporate climate disclosures, and restrictions on boycotting certain fuels and energy sources were enacted, and the trend continued this year in the states of **Alabama, Arkansas, Florida, Louisiana, and Missouri**.

Physical attacks on our nation's critical infrastructure hit their peak in 2022, according to the U.S. Department of Energy. That resulted in the passage of several critical infrastructure protection bills last year, and that trend carried forward into 2023 with **Alabama, Florida, Georgia, Tennessee, and Texas** passing laws that seek to protect our energy infrastructure from threats both foreign and domestic.

Legislatures across our region also passed multiple laws regarding solar and wind energy development and deployment. **Arkansas, Kentucky, Maryland, Louisiana, Puerto Rico, Tennessee, Texas, Virginia, and West Virginia** all enacted measures regulating or encouraging the growth of solar and wind energy.

A handful of our members also continued a trend we have observed over the past few years of addressing sources of and concerns about per- and polyfluoroalkyl substances (PFAS) contaminants. **Maryland, Virginia, and West Virginia** passed laws studying and regulating the use of PFAS.

Finally, related to the last point, measures governing potable water quality passed in the legislatures of **Florida, Georgia, Kentucky, Maryland, Mississippi, Oklahoma, Tennessee, Texas, Virginia, and West Virginia**.

Whether you are a fellow legislator who helped to pass a bill contained within this Preliminary Digest or you are simply interested in the legislative landscape of energy and environmental laws in the Southeast, we appreciate you for taking the time to review this year's Preliminary Digest.

### **About Representative William E. "Bill" Sandifer, III, of South Carolina**

Representative Bill Sandifer has served the people of Oconee County since 1994 and has earned a reputation as a dedicated conservative who shapes public policy focused on job creation and economic growth, high-quality education, efficient government, and strong families.

Representative Sandifer was born on February 21, 1945 in Aiken, S.C. to the late Frances Harley Sandifer and the late and former two term mayor of Seneca William Edward Sandifer, Jr. After his family moved to Seneca in 1959, he graduated from Seneca High School and earned a degree from the Cincinnati College of Mortuary Science. Following graduation, Representative Sandifer moved back to Seneca where he began his career as owner and operator of Seneca Mortuary.

He currently serves as chairman of the SC House Labor, Commerce and Industry Committee (LCI), one of six standing committees in the House. LCI is the only House committee that addresses business-related legislation. Representative Sandifer has chaired LCI since 2008. He also serves as vice chairman of the Public Utility Review Committee and on the Review and Oversight Commission on the State Ports Authority. In addition, Representative Sandifer was appointed to represent South Carolina at the Southern Legislative Conference where he was elected to chair the Energy and Environment Committee.

He has also been appointed to the Southern States Energy Board, a 63 year-old organization supporting innovations in energy and environmental policy, where he was elected to serve as Treasurer from 2018-2022 and Vice Chair since 2022. In both of these capacities, Representative Sandifer is recognized as a leader in energy and environmental efforts. He has spoken on many occasions on these subjects throughout the Southeastern US. In doing so, he brings positive attention to his home state of South Carolina.

Representative Sandifer served his country for 20 years in the SC Army National Guard, retiring as a major. He is married to the former Sandra Prater of Townville and is a proud father and grandfather. A member of Trinity Baptist Church, Representative Sandifer and his wife live in Seneca.

## **Categories of Energy Legislation**

### **Carbon Capture & Storage**

This category collects the various measures affecting Carbon Capture & Storage studies, development, and deployment that are critical to ongoing decarbonization efforts.

### **Critical Minerals & Rare Earth Elements**

The topic of Critical Minerals & Rare Earth Elements covers all mining and refinement efforts for minerals critical to the development of important technology, such as lithium-ion batteries for electric vehicles and rare earth elements necessary for the development of certain energy technologies like hydrogen power.

### **Cybersecurity & Digital Technology**

The category of Cybersecurity & Digital Innovation encompasses legislation related to cyber 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.

### **Efficiency & Weatherization**

The category of Efficiency & Weatherization includes legislation pertaining to the development and promotion of energy efficient technologies and programs for buildings, homes, transportation, power systems, and industry as well as efforts to weatherize existing infrastructure, businesses, and homes.

### **Emergency Management & 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.

### **Fossil Energy**

The category of Fossil Energy addresses regulations on all aspects concerning the production, generation, and regulation of natural gas, oil, petroleum, coal, and motor fuels.

### **Nuclear Energy**

This topic covers various measures related to the study, funding, and development of nuclear energy technologies, including small modular nuclear reactors and the transport and storage of nuclear waste.

## **Renewable Energy**

The category of Renewable Energy includes legislation related to the incentives, barriers, and costs associated with the development and implementation of green energy sources, such as wind, solar, biomass, hydroelectric, and geothermal power.

## **Reorganization & Coordination**

Reorganization & 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 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 legislation enacted deals with changes in rates, production, distribution, services, operations, ratemaking, and the location of utility services.

# **Categories of Environmental Legislation**

## **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, and control of marine harvests.

## **Emergency Management & 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.

## **Emissions & Pollution**

The category of Emissions & Pollution includes legislation addressing various pollutants and greenhouse gases released and emitted into the atmosphere. Specifically, measures in this category include air quality control and emission standards, as well as electric, hybrid, and alternative fuel vehicle-related measures given the low- to zero-emission nature of such transportation.

## **Environmental Health & Justice**

The category of Environmental Health & Justice 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. It also collects measures concerning environmental justice, which commonly addresses historically distressed communities and the equitable treatment of all people.



## **Hazardous Waste**

The category of Hazardous Waste contains legislation on toxic substance management. The primary purpose of this legislation is to control the production, transportation, use, and disposal of toxic substances and wastes.

## **Inland Water Quality & Management**

The category of Inland Water Quality & Management consists of legislation related to the conservation, permitting, management, and protection of inland water source. It also covers the management of stormwater, wastewater, sewage and other related water quality issues. The category 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.

## **Land Management**

The category of Land Management 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.

## **Reorganization & Coordination**

Reorganization & 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 responsibilities and requirements regarding notice to or coordination of agencies.

## **Solid Waste**

The category of Solid Waste captures legislation relating to the treatment, disposal, and/or recycling of refuse, scrap, chemical effluents, litter, and agricultural or industrial wastes.

## **Legislation Prefixes**

HB House Bill

HCR House Concurrent Resolution

HJR House Joint Resolution

HR House Resolution

SB Senate Bill

SCR Senate Concurrent Resolution

SJR Senate Joint Resolution

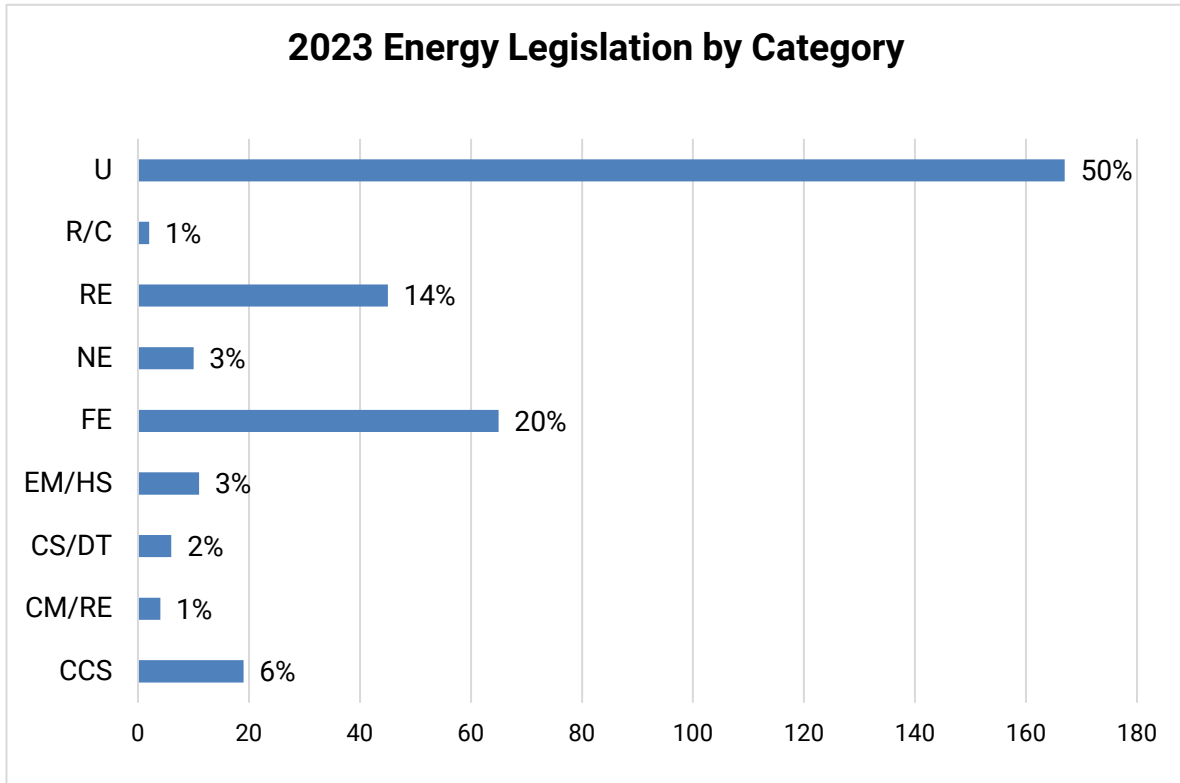
SR Senate Resolution

## Matrices and Graphs

The matrices and graphs on this and the following page illustrate energy and environmental legislative activity observed in SSEB member states and territories during this year’s legislative sessions.

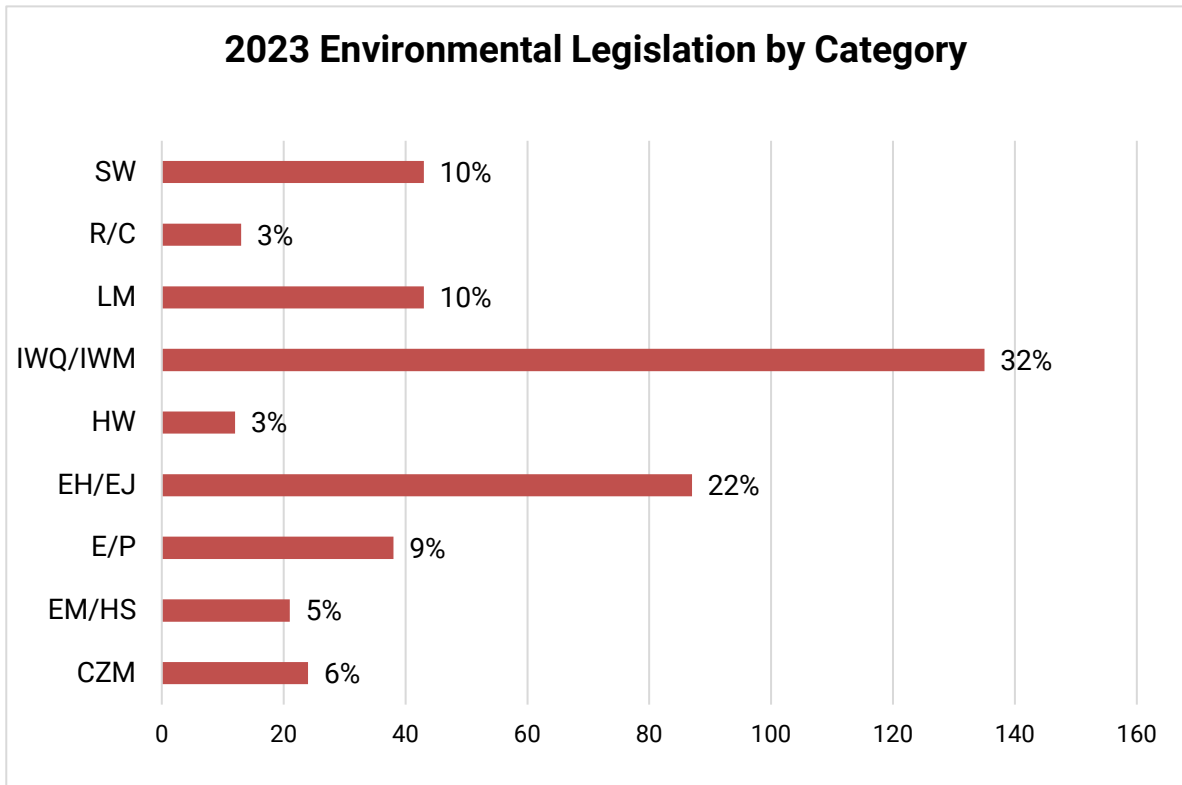
The bar charts show the collective number of bills enacted by category as percentages.

### 2023 Energy Legislation Matrix



Categories	AL	AR	FL	GA	KY	LA	MD	MS	MO	NC	OK	PR	SC	TN	TX	VI	VA	WV
CCS		✓				✓	✓				✓			✓	✓		✓	✓
CM/REE						✓												✓
CS/DT		✓		✓											✓			
E/W			✓				✓	✓			✓			✓	✓		✓	
EM/HS	✓		✓	✓		✓	✓				✓	✓		✓	✓		✓	
FE	✓	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓		✓	✓
NE		✓			✓						✓				✓		✓	✓
RE		✓			✓	✓	✓	✓			✓	✓			✓		✓	✓
R/C								✓					✓					
U	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓		✓	✓

## 2023 Environmental Legislation Matrix



Categories	AL	AR	FL	GA	KY	LA	MD	MS	MO	NC	OK	PR	SC	TN	TX	VI	VA	WV
CZM	✓		✓	✓		✓	✓	✓								✓	✓	
EM/HS	✓		✓	✓	✓	✓	✓	✓			✓				✓			✓
E/P		✓			✓	✓	✓				✓			✓	✓			✓
EH/EJ	✓	✓	✓	✓		✓	✓	✓	✓		✓		✓	✓	✓		✓	✓
HW		✓		✓	✓	✓					✓						✓	✓
IWQ/IWM	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓	✓	✓		✓	✓
LM	✓	✓	✓	✓	✓		✓						✓	✓	✓		✓	✓
R/C		✓				✓		✓					✓		✓			
SW	✓	✓	✓	✓	✓	✓	✓				✓			✓	✓		✓	✓

# ALABAMA

## Notable Legislation

**SB 261** prohibits governmental entities from entering into certain contracts with companies that boycott businesses because it engages in certain sectors or does not meet certain environmental or corporate governance standards or does not facilitate certain activities.

**SB 299** allows the state's Coal Production Tax Credit to be claimed against both income and utility services taxes.

## Energy Legislation

### Emergency Management & Homeland Security

#### HB 379 – Countries of Concern and Critical Infrastructure

*Sponsor: Stadthagen*

Declares that no certain foreign principal from a country of concern may acquire a title to, or interest in, any agricultural or forest property or real property on or within 10 miles of any military installation or critical infrastructure facility.

The measure defines China, Iran, North Korea, and Russia as countries of concern.

#### SB 22 – CLEM Salary Increase

*Sponsor: Jones*

Provides for an increase in the annual salary supplement amount given to certified local emergency management (CLEM) directors with the caveat that the supplement does not exceed \$17,000.

### Fossil Energy

#### HB 378 – Brownfield Remediation Assessments

*Sponsor: Brown*

Allows the Alabama Department of Environmental Management (ADEM) to assess a \$500 per acre Brownfield Remediation Reserve Fund Contribution on certain properties, which is deposited into the non-reverting Brownfield Remediation Reserve Fund created by the bill.

The fund, administered by ADEM, is for certain remediation or post-remediation costs, up to \$4 million per property, and monies in this fund may be invested pursuant to state law.

#### HB 390 – Aboveground Storage Tanks Project Eligibility

*Sponsor: South*

Establishes that work regarding aboveground storage tanks registered for eligibility under the Alabama Underground and Aboveground Storage Tank Trust Fund does not constitute an environmental response project for environmental covenant purposes.

#### SB 299 – Coal Production Tax Credit Allowances

*Sponsor: Orr*

Allows the state's Coal Production Tax Credit to be claimed against both income and utility services taxes.

The measure also states the credits may be earned by all persons that increase their production of coal mined in Alabama from the prior year. Any unused credits may be carried forward for no more than five years.

## **SJR 6 – Offshore Oil and Natural Gas Policies**

*Sponsor: Allen*

Urges the President of the United States to enact policies that will result in continued long-term American energy leadership, security, and progress, including promptly initiating the Multi-sale Environmental Impact Analysis and issuing a robust five-year offshore oil and natural gas leasing program that will allow lease sales to continue in 2024 and beyond.

## **Utilities**

### **HB 310 – Healthier Homes Construction Practices Act**

*Sponsor: Easterbrook*

Creates the Healthier Homes Construction Practices Act, which states that any municipality or county that adopts and enforces building codes must enact a procedure allowing for the installation and activation, on a temporary basis in accordance with the requirements of the act, of electricity ("temporary-permanent electricity") or gas ("temporary-permanent gas") in any dwelling, covered by the scope of the International Residential Code, under construction in its jurisdiction.

In each case, the municipality is allowed to require certain security and safety measures are met in the installation of both. Where sewer service is not available, a request for temporary-permanent electricity or temporary-permanent gas must be accompanied by copies of all septic system plans and permits, approved by the local health department.

### **SB 40 – Latent Feature Requirements**

*Sponsor: Elliott*

Restricts the governing body of any municipality or county, or any agency thereof, from directly or indirectly adopting or enforcing any ordinance, rule, bylaw, order, or state or local building code provision requiring the installation of any latent feature, such as electrical wiring and gas tubing, in any residential structure if the technology will not be utilized by the homeowner.

### **SB 258 – Water Service One-time Audits**

*Sponsor: Jones*

Clarifies that the law regarding one-time audits applies to nonprofit corporations providing water service to its members or the public, and the measure authorizes the Department of Examiners of Public Accounts to conduct an additional one-time audit of a nonprofit corporation if the department suspects fraud or mismanagement of funds.

## **Environmental Legislation**

### **Coastal Zone Management**

#### **HB 358 – Boating Violation Revisions**

*Sponsor: Shaver*

Renames the Marine Police Division to the Marine Patrol Division of the Department of Public Safety and updates current law to incorporate boating violations and reclassifies existing misdemeanor offenses as violations.

The measure amends the reporting requirements from 10-days to 24-hours for an individual involved in a boating accident involving death, personal injury, or property damage of \$2,000 or more. It removes the requirement for capacity plates for vessels less than 26 feet and amends the length of a vessel from 24 feet to 26 feet, is required to have, and for which the operator is required to wear, a shut-off switch.

## **Emergency Management & Homeland Security**

### **HB 455 – Rural and Community Fire Protection Development and Improvement Grant Program**

*Sponsor: Standridge*

Creates the Rural and Community Fire Protection Development and Improvement Grant Program, funded by the Rural and Community Fire Protection Development and Improvement Fund, to issue grants to certain volunteer fire departments in order to assist the development and improvement of rural and community fire protection.

**The bill also requires the State Forestry Commission to administer the grant program and a statewide grant training program.**

### **SB 284 – Emergency Action Plans for Dams**

*Sponsor: Chambliss*

Requires certain dam owners to develop emergency action plans and provides for the inspection of certain dams and reservoirs by an engineer.

**The bill further requires dam owners to notify their local emergency management agency of any new dam construction or enlargement.**

## **Environmental Health & Justice**

### **SB 261 – Environmental Boycott Restrictions**

*Sponsor: Roberts*

Prohibits governmental entities from entering into certain contracts with companies that boycott businesses because it engages in certain sectors or does not meet certain environmental or corporate governance standards or does not facilitate certain activities.

**The measure states that no company in the state will be required by a governmental entity, nor penalized by a governmental entity for declining to engage in economic boycotts or other actions that further social, political, or ideological interests. The Attorney General is required to take actions to prevent federal laws or actions from penalizing, inflicting harm on, limiting commercial relations with, or changing or limiting the activities of companies or residents of the state based on the furtherance of economic boycott criteria.**

### **SJR 61 – Feral Swine Study**

*Sponsor: Sessions*

Establishes a Joint Study Commission on feral swine in Alabama in order to investigate the effects of feral swine on the economy and local natural resources and formulate solutions.

## **Inland Water Quality & Management**

### **HB 461 – Water Well Driller Licenses**

*Sponsor: Givens*

Provides for the licensing of water well drillers by the Baldwin County Water Well Standards Board.



## **SJR 9 – Alabama River Recognition**

*Sponsor: Albritton*

Recognizes the Alabama River as an Alabama state landmark on Rivers of Alabama Day on April 11, 2023.

## **Land Management**

### **SB 76 – Logging Efficiency Grant Fund**

*Sponsor: Barfoot*

Establishes the Rural Logging Efficiency Act of 2023 which establishes the Logging Efficiency Grant Fund to be administered by the Alabama Forestry Commission.

The fund is dedicated for maintaining, repairing, replacing, and constructing public rural bridges that may not qualify for funding through traditional funding formulas utilized by the state and counties to distribute revenue generated by fuel taxes.

### **SB 128 – Surplus Property Sale Authorization**

*Sponsor: Scofield*

Authorizes the State Forester to sell surplus personal property owned by the Alabama Forestry Commission.

### **SB 298 – Strategic Trail Network Development**

*Sponsor: Jones*

Provides for the development of a strategic trail network and grants for qualified donations of donated property.

In order to accomplish the legislation's goal, it establishes the Sweet Trails Alabama Project Fund and the Sweet Trails Alabama Acquisition Fund and provides for the use of monies in the funds for a trail network.

## **Solid Waste**

### **HB 311 – Solid Waste Facility Plan Approvals**

*Sponsor: Baker*

Provides further for the approval of the application of a plan for a modified existing solid waste management facility by local governing bodies.

Such plan is only required when:

- Increasing the service area or adding to the facility's acreage;
- Converting an industrial landfill or a construction and demolition landfill into a municipal solid waste landfill, or converting a construction and demolition landfill into an industrial landfill;
- Changing the mode of transport of solid waste to the facility; and/or
- Increasing the average daily volume.

# ARKANSAS

## Notable Legislation

**SB 62** prohibits public entities from contracting with companies that boycott energy, fossil fuel, firearms, and ammunition industries.

**SB 454** establishes that before a public utility contract for interruptible service is effective, it must demonstrate that the contract is in the public interest and specify the amount of interruptible load to be achieved by the customer.

## Energy Legislation

### Carbon Capture & Storage

#### SB 210 – Underground Gas Storage Definitions

*Sponsors: Irvin and Gazaway*

Revises the Underground Storage of Gas Law to include carbon oxides, ammonia, hydrogen, nitrogen, or noble gas in its definition of "gas" regulated under the law.

#### SB 407 – Bioenergy Carbon Classifications

*Sponsor: McKee, et al.*

Establishes that bioenergy produced from biomass or agricultural harvesting is considered renewable and carbon neutral.

The bill further states that bioenergy produced from biomass or agricultural harvesting paired with carbon capture and storage is considered carbon negative.

### Cybersecurity & Digital Technology

#### HB 1369 – Cyber Security Policy

*Sponsors: Meeks and English*

Requires public entities, such as the Department of Energy and Environment, to create a policy concerning the authorized use of technology resources and a cyber security policy.

#### HB 1799 – Digital Mining Utility Guidance

*Sponsors: McClure and Bryant*

Creates the Arkansas Data Centers Act of 2023 in order to provide guidance on data centers, digital currency, and blockchain technology.

Specifically, the measure requires a digital mining business to comply with state law concerning business guidelines and tax policies, any ordinance concerning operations and safety, any rule or rate for utility service provided by or on behalf of a public entity, and state and federal employment laws.

Digital miners must pay applicable taxes and government fees in acceptable forms of currency and operate in a manner that causes no stress on an electric public utility's generation capabilities or transmission network, according to the bill.

## **Fossil Energy**

### **HB 1474 – Underground Gas Storage as Critical Infrastructure**

*Sponsors: Gazaway and Irvin*

Adds underground gas storage facilities to the definition of critical infrastructure protected by law.

### **HB 1520 – Petroleum Storage Facility Payment Limit**

*Sponsors: Ladyman and Boyd*

Revises the payment limit for corrective actions taken against a petroleum storage facility from \$1.5 to \$2 million per occurrence.

### **HB 1572 – Underground Gas Storage Regulations**

*Sponsor: Hawk, et al.*

Prohibits certain types of local regulation of underground gas storage facilities, fuel retailers, and related transportation infrastructure.

Local municipalities are prohibited by the measure from:

- Adopting a law, ordinance, regulation, policy, or resolution that prohibits the siting, developing, or redeveloping of an underground gas storage facility described in the Underground Storage of Gas Law, fuel retailer, or the related transportation infrastructure within the entirety of the jurisdictional boundary of the municipality, county, special district, or political subdivision;
- Adopting or apply a law, ordinance, regulation, policy, or resolution that results in the de facto prohibition of a fuel retailer or the related transportation infrastructure within the entirety of the jurisdictional boundary of a municipality, county, special district, or political subdivision; or
- Requiring a fuel retailer to install or invest in a particular kind of fueling infrastructure, including without limitation electric vehicle charging stations.

### **SB 62 – Energy Boycott Prohibition**

*Sponsors: Hill and Wardlaw*

Prohibits public entities from contracting with companies that boycott energy, fossil fuel, firearms, and ammunition industries.

### **SB 297 – Underground Facilities Damage Penalties**

*Sponsors: Dismang and Eaves*

Revises the penalties for violations of the Underground Facilities Damage Prevention Act in order to require remediation training in underground facilities damage prevention according to a training program developed and administered by the One Call Center.

Fines for damages resulting from an interstate or intrastate hazardous liquids pipeline failure were raised to \$257,664 per day with a cap of \$2.3 million.

## **Nuclear Energy**

### **HB 1142 – Arkansas Nuclear Recycling Program**

*Sponsor: Ladyman, et al.*

Creates the Arkansas Nuclear Recycling Program under the Department of Energy and Environment.

The program is meant to accomplish the following:

- Develop a fiscal model for commercial applications of existing technology to reclaim and repurpose spent nuclear fuel rods;
- Develop an interim and long-term storage plan for residual materials; to develop a fiscal model for current and future market demand;
- Develop engineering documents for the recycling process;
- Perform site analysis for prospective recycling facility locations and develop a construction cost and schedule report; and
- Establish Arkansas as the only state to declare itself interested in pursuing a final solution for spent nuclear fuel through recycling.

## **Renewable Energy**

### **HB 1779 – Wood Energy Products Tax Credit**

*Sponsors: Wardlaw and Gilmore*

Amends the Wood Energy Products and Forest Maintenance Income Tax Credit to allow an income tax credit for wood energy products and forest maintenance expansion projects.

## **Utilities**

### **HB 1360 – Residential Electricians Work Authorization**

*Sponsors: McGrew and McKee*

Allows residential electricians to perform work on three- and four-family homes.

### **HB 1408 – Uniform Easement Relocation Act**

*Sponsors: Brown and Tucker*

Creates the Uniform Easement Relocation Act and declares the right of a servient estate owner to relocate an easement provided it does not interfere with a public utility easement, telecommunications easement, conservation easement, or negative easement.

The law outlines the process by which an owner may instigate civil action to relocate an easement, and it clarifies that the owner is not required to serve a summons and petition on the owner of a recorded real-property interest in oil, gas, or minerals unless the interest includes an easement to facilitate oil, gas, or mineral development.

### **HB 1437 – ATV Authorizations for Utility Workers**

*Sponsors: Maddox, J.; Boyd, J.; Achor, B.*

Allows an agent of a utility to operate an all-terrain vehicle on a public street or highway while he or she is performing a function directly related to the operation of the utility, telecommunications, cable company, or is working during an emergency or severe weather.

### **HB 1497 – Formula Rate Review Modifications**

*Sponsor: Lundstrum, et al.*

Modifies the Formula Rate Review Act in order to allow a public utility to file an application for a change in rates and charges at any time during an initial term of the formula rate review mechanism.

## HB 1515 – Rate Increases for Water Providers

*Sponsors: Maddox and Rice*

Modifies the provisions of a rate study for retail water providers such that if through the study it is recommended that a series of rate increases be implemented over a period of time that exceeds the periods of time required by law, the provider may implement the series of rate increases provided that the series of rate increases conform with the recommendations of the rate study.

## HB 1654 – Data Centers Utility Exemption

*Sponsors: Pilkington and Dismang*

Exempts from the gross receipts tax data center equipment and eligible costs, such as electricity used by the data center.

## HR 1040 – Electric Cooperatives of Arkansas Day

*Sponsor: Eaves*

Proclaims March 14, 2023, as Electric Cooperatives of Arkansas Day at the state capitol.

## SB 295 – Cost-Shifting Prevention Act

*Sponsors: Dismang and Fite*

Re-establishes the Arkansas Renewable Energy Development Act Of 2001 as the Cost-Shifting Prevention Act of 2023 in order to prevent cost-shifting and ensure fairness to all ratepayers by lowering compensation for solar users to wholesale rates that electric utilities pay other power providers.

A net-metering facility is redefined by the bill to include a facility that produces electric energy in order to meet “all or part of a net-metering customer’s need for electric energy within a single utility’s allocated service territory.” It is further re-defined to mean, for residential use, a facility with a nameplate generating capacity of not more than the lesser of 25 kilowatts alternating current or 100 percent of the net-metering customer's highest monthly usage in the previous 12 months for residential use unless an individual net-metering customer's net-metering facility with a greater amount is included in a standard interconnection agreement executed before December 31, 2022. For nonresidential customers or use, capacity must be less than or equal to the lesser of 5,000 kilowatts alternating current or 100 percent of the net-metering customer's highest monthly usage in the previous 12 months within a single utility's allocated service territory where a single net-metering facility is physically located behind a net-metering customer's electric utility meter that represents 100 percent of the net-metering customer's energy usage served by the net-metering facility.

The measure also establishes the Customer Protections for Net-metering Customers Act, which outlines the requirements that any persons selling or leasing a net-metering facility or offering a net-metering service must provide a prospective or existing customer a minimum of five business days to evaluate a proposal to construct a net-metering facility to provide all or part of the prospective or existing customer’s needs for electric energy within a single electric utility’s allocated service territory.

The seller must also perform an energy efficiency audit on the potential or existing net-metering customer's premises and any customer meter locations to be served by the proposed net-metering facility as part of the proposal to sell or lease a net-metering facility or provide a net-metering service to a net-metering customer under the Arkansas Cost-Shifting Prevention Act of 2023 or inform the prospective or existing net-metering customer of how to obtain an energy efficiency audit. They must also inform the prospective or existing net-metering customer of the available energy efficiency measures to address the results of the audit as part of the proposal to sell or lease a net-metering facility or provide a net-metering service to a net-metering customer under the Arkansas Cost-Shifting Prevention Act of 2023.

## SB 333 – Gas Pipeline Regulation Exemption

*Sponsors: Wallace, Milligan, and Carr*

Adds certain gas pipeline facilities as an exemption under regulation by the Utility Facility Environmental and Economic Protection Act.

The revised law includes pipeline of less than five miles that primarily serves a single customer or group of customers and is entirely on land owned or leased by the customer or group.

## SB 454 – Interruptible Service Provisions

*Sponsors: McKee, Beaty, Gilmore, and Stone*

Establishes that before a public utility contract for interruptible service is effective, it must demonstrate that the contract is in the public interest and specify the amount of interruptible load to be achieved by the customer.

The law declares that an electric utility must have a schedule that offers interruptible service when the electric utility's class of customers with the highest level of consumption per customer that has rates that include a demand component, and any successors to such a class, as the class existed on January 1, 2023, has an annual usage for the class as a whole in excess of 5 million megawatt hours.

The rate schedule must be consistent with and permitted by applicable regional transmission organization tariffs and any applicable order, rule, or regulation issued by the Federal Energy Regulatory Commission and the Arkansas Public Service Commission, in order to the greatest extent possible to qualify as a resource in the regional transmission organization's wholesale market.

Except as otherwise provided or required by the applicable regional transmission organization or an applicable Federal Energy Regulatory Commission order, rule, or regulation, the law states an electric utility may not prohibit a customer from taking interruptible service based solely upon a fuel source the customer uses to meet the customer's contracted interruptible requirements.

Finally, the bill provides that an electric utility customer's accounts that are taking interruptible service under an electric utility's rate schedule for interruptible service are not eligible for net-metering or allowed to participate in net-metering under the Arkansas Cost-Shifting Prevention Act of 2023 unless the Arkansas Public Service Commission has:

- On or before December 31, 2022, issued an order addressing an individual net-metering customer's application for approval of a net-metering facility with a name plate generating capacity in excess of 10,000 kilowatts if an individual net-metering customer takes service under an electric utility's rate schedule for interruptible service; and
- Determined that it is in the public interest for that individual interruptible customer to be a net-metering customer.

## SB 536 – Reporting Remaining Generation Unit Life Cycle

*Sponsors: Irvin and Eaves*

Amends the Arkansas Affordable Energy Act in order to require the Arkansas Public Service Commission to produce a report every three years discussing the remaining lives of electric generating units based on data and information previously provided in the integrated resource plans of electric utilities.



## **SB 576 – Recoverable Costs Limit Increase**

*Sponsors: Gilmore and Beaty*

Increases the amount recoverable for a utility affected by rate changes proposed by the Arkansas Public Service Commission from \$3 to \$5 million per year.

## **Environmental Legislation**

### **Emissions & Pollution**

#### **HB 1137 – Vegetation Burning**

*Sponsors: Cavanaugh, Johnson, Gazaway, and Lundstrum*

Updates the Arkansas Water and Air Pollution Control Act to include vegetation disposal in its stated list of items permissible for burning by authorized entities.

#### **HB 1354 – Highway Revenues and Electric Vehicles**

*Sponsors: Holcomb and Caldwell*

Amends the definition of "highway revenues" under the Arkansas Highway Revenue Distribution Law to include the additional registration fee for electric vehicles, hybrid vehicles, and plug-in hybrid vehicles.

The measure also adds the County Aid Fund and the Municipal Aid Fund, alongside the State Highway and Transportation Department Fund, as a means of distributing the fees collected.

### **Environmental Health & Justice**

#### **HB 1307 – ESG Oversight Website**

*Sponsors: Wardlaw, et al.*

Requires the State Treasurer to maintain a list of financial services providers as determined by the Environmental, Social, and Corporate Governance (ESG) Oversight Committee on the State Treasurer's website.

The treasurer must also post the list of financial services providers that discriminate against energy companies or firearms entities or otherwise refuse to deal based on environmental, social justice, and other governance-related factors on the Treasurer of State's website.

Finally, the measure directs the treasurer and all public entities to divest the state of all direct or indirect holdings with a financial services provider included on the list published on the treasurer's website.

#### **HB 1813 – Wildlife Officer Terminology Update**

*Sponsors: Pearce and Payton*

Substitutes usage of "game warden" for "wildlife officer" in existing law.

#### **HB 1845 – ESG Oversight**

*Sponsor: Wardlaw*

Transfers oversight on environmental, social justice, or governance (ESG) scores from the State Treasurer and Attorney General to the ESG Oversight Committee.

## **SB 534 – Arkansas Rocks! Mining and Mineral Trail**

*Sponsors: Crowell and Gonzales*

Creates the "Arkansas Rocks! Mining and Mineral Trail" in order to highlight and promote its scenic trails and natural resources.

## **Hazardous Waste**

### **HB 1706 – Liquid Animal Waste Management Authority**

*Sponsors: Vaught and Johnson*

Transfers the authority related to liquid animal waste management systems from the Department of Energy and Environment to the Department of Agriculture.

The measure states the department has the authority to promulgate rules related to liquid animal waste management systems, issue and modify permits, and approve design plans and site requirements.

### **HB 1707 – Nutrient Management Plan Privacy**

*Sponsors: Vaught and Johnson*

Provides that nutrient management plans and poultry litter management plans are not public records.

## **Inland Water Quality & Management**

### **HB 1015 – Nonmunicipal Domestic Sewage Treatment Exemptions**

*Sponsors: McGrew, McKee, Fite, and Bentley*

Amends the Arkansas Water and Air Pollution Control Act so as to exempt a property owners' association or homeowners' association that operates a nonmunicipal domestic sewage treatment works servicing a population exceeding 5,000 individuals from actions related to National Pollutant Discharge Elimination System permits.

### **HB 1100 – Urban Service Districts Modification**

*Sponsors: Collins and Tucker*

Revises the definition of "Urban Service Districts" to grant the ability to manage drainage system maintenance and redevelopment, including without limitation services provided by storm water management programs.

### **HB 1624 – Surface Water Conversion Tax Credit**

*Sponsors: Beaty and Gilmore*

Amends the law concerning the projects eligible for the income tax credit for surface water conversion under the Water Resource Conservation and Development Incentives Act to include projects in Chicot County.

### **SB 478 – Waterways Investment Income Tax Credit**

*Sponsors: Dismang and Eaves*

Creates a Waterways Investment Income Tax Credit and provides additional funding for the Arkansas Port, Intermodal, and Waterway Development Grant Program Fund.

The Waterways Investment Tax Credit is an income tax credit for the cost of making capital improvements to a facility or property related to using water transportation. Each year, \$2.5 million in tax credits are available on a first-come, first-served basis. No tax credit awarded may exceed \$3,000,000, according to the measure.

## **Land Management**

### **HB 1163 – Managing Lands within Lakes and Rivers**

*Sponsors: Bentley and Stubblefield*

Revises the law concerning the management of lands located or created within lakes or rivers by the Commissioner of State Lands.

All applicants for deeds must submit a form, which the law revises to establish that the commissioner must provide an application form in electronic format available online.

The resulting required survey of the land must include statements that the applied-for lands have emerged to the high-water mark and are capable of cultivation.

### **HB 1191 – Delinquent Land Sales**

*Sponsors: Richmond and Stubblefield*

Clarifies language regarding delinquent land sales by replacing all references to "property" or "land" with "parcel" and states that a tax delinquent parcel may not be transmitted by certification to the Commissioner of State Lands without the county assessor's verification.

If the Commissioner of State Lands determines the tax-delinquent parcel is incorrectly certified for failure to meet the requirements of this section, the commissioner must return the tax-delinquent parcel with the invalid certification to the county.

### **SB 415 – Arkansas Prescribed Burning Act**

*Sponsor: Stone, et al.*

Establishes the Arkansas Prescribed Burning Act, which allows for the prescribed burning of certain forest land provided the landowner complies with the law and earns an approved prescription prior to the **burning**.

## **Reorganization & Coordination**

### **SB 402 – Conservation District Director Provisions**

*Sponsors: Johnson and Vaught*

Amends the procedure for the election of a director of a conservation district.

The measure requires a nominating petition for directors to contain at least 25 signatures to be valid. Prior directors may run for re-election without attaining signatures, provided the director attended 65 percent of the district's board meetings and three or more area or state meetings within the last three years. Write-in candidates are voided by the law.

Those deemed qualified to vote in such elections must be registered to vote in Arkansas and must own land **within the district**.

### **SB 433 – Office of the State Geologist Creation**

*Sponsor: Irvin*

Abolishes the Arkansas Geological Survey and creates the Office of the State Geologist with the authority and duties of the Arkansas Geological Survey.

### **SB 467 – Arkansas Pollution Control and Ecology Commission Amendments**

*Sponsor: Irvin*

Reduces the membership of the Arkansas Pollution Control and Ecology Commission from 15 to seven.

The measure removes the automatic membership for the State Forester, the Director of the Oil and Gas Commission, the Director of the Arkansas Natural Resources Commission, and the State Geologist.

## **Solid Waste**

### **HB 1365 – Scrap Recycling Catalytic Converter Offenses**

*Sponsor: Holcomb, et al.*

Creates offenses for theft of a catalytic converter and unauthorized possession of a catalytic converter.

**Scrap metal recyclers are now required to maintain records on catalytic converter purchases.**

### **HB 1744 – Qualifications for Re-opening Landfill**

*Sponsors: Wardlaw and Hill*

Amends existing law to declare a landfill of any class that receives moneys from the Division of Environmental Quality from the Landfill Post-Closure Trust Fund for remediation or closure must remain closed and unavailable to receive solid waste until certain conditions are met.

The stated conditions are:

- Full reimbursement to the fund of moneys received by the landfill for remediation or closure;
- Approval for a new certificate of need for the landfill from the regional solid waste management board; and
- At least one public hearing for public input concerning the opening of the landfill held by the regional solid waste management district.

### **HB 1746 – Economic Development Incentives for Solid Waste Disposal**

*Sponsor: Lundstrum*

Allows certain solid waste disposal businesses to be eligible for economic development incentives under the Arkansas Business and Technology Accelerator Act and the Consolidated Incentive Act of 2003.

### **SB 288 – Solid Waste Permit Fees for Class I and III Landfills**

*Sponsors: Irvin and Brown*

Establishes that the Arkansas Pollution Control and Ecology Commission may set solid waste permit fees for Class I and Class III landfills calculated to generate revenues not to exceed the reasonable administrative costs of evaluating and taking action on permit applications and of implementing and enforcing the terms and conditions of permits and variances.

### **SB 310 – Electronic Waste Collection, Recycling, And Reuse Act Repeal**

*Sponsor: Johnson*

Repeals the Electronic Waste Collection, Recycling, And Reuse Act.

### **SB 314 – Waste Reduction, Reuse, or Recycling of Steel Products**

*Sponsors: Wallace and Wardlaw*

Extends the closing date on "qualified steel specialty products manufacturing facility" for the purpose of the income tax credit for waste reduction, reuse, or recycling equipment to October 1, 2023.

## SB 508 – Used Tire Recycling Fees

*Sponsors: Payton, Gonzales, and Irvin*

Amends the Used Tires Recycling and Accountability Act so that administration of the Used Tires Recycling Program is transferred from the Division of Environmental Quality to the Department of Finance and Administration (DFA).

The measure levies tire recycling fees as follows:

- \$3 tire recycling fee on small tires sold in the state, defined as tires used for low profile vehicles, pick-up trucks, light duty trucks, lawn mowers, and golf carts;
- \$3 tire recycling fee on tires equipped on a new motor vehicle or trailer to be collected at the time of registration of the new motor vehicle or trailer by DFA; and
- If approved by the Tire Accountability District, a tire recycling fee of up to \$7.50 for large and \$30.00 for extra-large tires to be collected by the tire retailers.

# FLORIDA

## Notable Legislation

**HB 3** prohibits both the state Division of Bond Finance and specified public bond issuers from issuing an environmental, social, or corporate governance (ESG) bond, paying for the services of another to verify or certify a public bond as an ESG bond, or contracting with rating agencies that use ESG scores in a manner that directly impacts the issuer's bond ratings.

**SB 418** establishes that a residential property insurer's rate filing may estimate projected hurricane losses by using a weighted or straight average of two or more models approved by the Florida Commission on Hurricane Loss Projection Methodology.

## Energy Legislation

### Efficiency & Weatherization

#### HB 799 – Wind-loss Mitigation Study and Insurance Provisions

*Sponsor: Commerce Committee, et al.*

Provides a \$750,000 nonrecurring appropriation from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation (OIR) to conduct a wind-loss mitigation study.

The bill also establishes that a property insurer's residential rate filing with OIR must allow for appropriate discounts for mitigation measures that reduce the potential for windstorm losses. It also adds wind uplift prevention to the list of fixtures or construction techniques for which an actuarially reasonable discount, credit, or other rate differential, or appropriate reduction in deductibles, must be included in a rate filing for residential property insurance.

Further, the measure requires that, if an insurer requires an insured or applicant to have flood coverage when issuing a policy containing wind coverage, the insurer must verify that the insured or applicant has flood coverage. The bill also declares that an insurer may deny a wind claim where a policyholder fails to

maintain his or her flood insurance policy after the insurer verifies the existence of the flood policy, but before making a wind claim.

Finally, it establishes that a master flood policy issued to someone other than the insured or applicant that includes the insured or applicant as an intended third-party beneficiary is acceptable proof of flood coverage.

## HB 881 – My Safe Florida Home Program Updates

*Sponsor: Insurance & Banking Subcommittee, et al.*

Makes various changes to the statutory framework for the My Safe Florida Home (MSFH) Program, including changes to inspection and grant eligibility requirements, program management, and technical, conforming, and statutory structure.

The bill requires that eligible properties be homesteaded and that funds from the MSFH Program may be used to inspect townhouses to determine if opening protection mitigation would help decrease the risk of hurricane damage. If an inspection determines that opening protection mitigation would decrease such risk, grant funds from the MSFH Program may be used to pay for the mitigation.

The legislation also increases the value of the mitigation grant-eligible homes from \$500,000 to \$700,000. It removes the designation of a specific portion of the grant funds for low-income recipients but increases the overall grant award for low-income recipients from \$5,000, to \$10,000.

The act makes the MSFH Program statewide instead of limited to homes in the wind-borne debris region, and it also eliminates two types of home improvements from the list of those home improvements for which MSFH Program grant funds may be used because they are no longer recognized by the Florida Building Code.

## Emergency Management & Homeland Security

### HB 645 – Critical Infrastructure Facility Definitions and Drone Restrictions

*Sponsors: Infrastructure Strategies Committee and Transportation & Modals Subcommittee, et al.*

Removes the requirement that a person or governmental entity seeking to restrict or limit the operation of drones in close proximity to infrastructure or facilities must apply to the Federal Aviation Administration.

The bill also repeals provisions allowing a drone operating in transit for commercial purposes to operate over a critical infrastructure facility.

The measure expands the definition of “critical infrastructure facility” to include:

- A water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- A liquid natural gas or propane gas terminal or storage facility, regardless of capacity;
- A refinery;
- A gas processing plant including a plant used in the processing, treatment, or fractionation of natural gas;
- A seaport;
- An inland port or other facility serving as a point of intermodal transfer of freight;
- An airport;
- A spaceport territory;



- Certain military installations and armory; and
- A dam or other structures such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waterways.

## **Fossil Energy**

### **HB 1307 – Contraband Fuel**

*Sponsor: Criminal Justice Subcommittee, et al.*

Provides that any conveyances, vehicles, fuel tanks, and other equipment used or intended to be used in a violation of the law, and any fuel acquired in violation of the law, is subject to seizure and forfeiture as provided by the Florida Contraband Forfeiture Act.

According to the measure, law enforcement agencies that seize fuel must remove and reclaim, recycle, or dispose of all the fuel as soon as practicable in a safe and proper manner. Upon conviction of a person arrested for a violation of retail fuel theft, the judge must issue an order adjudging and declaring that all conveyances, vehicles, fuel tanks, and other equipment that was used or intended to be used to commit a violation are forfeited and directing their destruction, with the exception of the conveyance or vehicle.

## **Utilities**

### **SB 162 – Reciprocal Water Utility Worker Licenses**

*Sponsor: Environment and Natural Resources*

Requires the Department of Environmental Protection (DEP) to issue reciprocal licenses to water utility workers licensed in other jurisdictions and other license applicants who meet certain requirements.

The bill directs the DEP to award education and operational experience credits to license applicants who have performed comparable duties in the United States Armed Forces but who do not meet some other requirements for a reciprocal license.

The law also provides that, during a declared state of emergency, the DEP may issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity and must waive the application fee for a temporary operator license.

## **Environmental Legislation**

### **Coastal Zone Management**

#### **SB 724 – Seagrass Restoration Technology Development Initiative**

*Sponsor: Environment and Natural Resources*

Establishes the Seagrass Restoration Technology Development Initiative within the Department of Environmental Protection.

The measure requires the creation of a 10-year Florida Seagrass Restoration Plan, and the initiative is required to submit an annual report by January 15, 2024, to the Governor, the Legislature, the Secretary of Environmental Protection, and the executive director of the Fish and Wildlife Conservation Commission.

## **Emergency Management & Homeland Security**

### **HB 1185 – Crowd-funding After Natural Disasters**

*Sponsors: Commerce Committee and Insurance & Banking Subcommittee, et al.*

Identifies unlawful acts and practices regarding online crowd-funding campaigns related to disasters and requires crowd-funding platforms to retain data on campaigns for one year after the date of the disaster.

The measure also adds to the information and disclosures that must be provided to customers when they purchase or lease distributed energy generation systems (DEGS) to include the customer contact center phone number for the Department of Business and Professional Regulation.

### **SB 2 – Bridge Loan Program for Municipalities Affected by Certain Hurricanes**

*Sponsor: Albritton*

Establishes the Local Government Emergency Bridge Loan Program within the Department of Economic Opportunity to provide financial assistance to local governments impacted by Hurricane Ian or Hurricane Nicole.

The purpose of the loan program is to assist local governments in maintaining operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide financial assistance.

### **SB 418 – Projecting Hurricane Losses and Windstorm Insurance Coverage**

*Sponsor: Perry*

Establishes that a residential property insurer's rate filing may estimate projected hurricane losses by using a weighted or straight average of two or more models approved by the Florida Commission on Hurricane Loss Projection Methodology.

The bill also declares that an insurer may file a personal lines residential property insurance rating plan that provides premium discounts, credits, and other rate differentials based on windstorm construction standards developed by an independent, nonprofit scientific research organization. It also revises the requirement that the waiver by a policyholder of residential windstorm coverage or contents coverage be in the policyholder's own handwriting by also allowing the waiver to be typed.

Finally, the measure revises the mandated deductibles that must be offered for hurricane loss when issuing a personal lines residential property insurance policy. For policies with a dwelling limit of:

- \$250,000 or more, but less than \$1 million, the insurer need not offer the \$500 hurricane deductible;
- \$1 million or more, but less than \$3 million, the insurer may, in lieu of offering the 2 percent deductible, offer a deductible amount applicable to hurricane losses equal to 3 percent of the policy dwelling limits; and
- \$3 million or more, the insurer need not offer the 2 percent deductible.

## **Environmental Health & Justice**

### **HB 3 – Prioritizing Returns Over Social, Political, or Ideological Interests**

*Sponsors: State Affairs Committee and Commerce Committee, et al.*

Expands the directive that the State Board of Administration invest funds of the Florida Retirement System Defined Benefit Plan in a manner that prioritizes the highest return on investment, without consideration of

social, political, or ideological interests to cover all funds invested by state and local governments, including general revenue, trusts dedicated to specific purposes, money held by retirement plans, and surplus funds.

Investment decisions, including written policies and the exercise of shareholder rights, must be driven solely by pecuniary factors, and may not sacrifice investment return to promote non-pecuniary factors. The term “pecuniary factor” is defined by the bill as a factor that is expected “to have a material effect on the risk or return of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests.”

Additionally, the bill prohibits both the state Division of Bond Finance and specified public bond issuers from issuing an environmental, social, or corporate governance (ESG) bond, paying for the services of another to verify or certify a public bond as an ESG bond, or contracting with rating agencies that use ESG scores in a manner that directly impacts the issuer’s bond ratings.

For government contracting, the law prohibits all units of state and local government from considering social, political, or ideological beliefs when evaluating prospective vendors, or giving any preference to a vendor based on social, political, or ideological beliefs.

### **Inland Water Quality & Management**

#### **HB 407 – Apalachicola Bay Area Water Quality Improvements**

*Sponsors: Shoaf and Basabe*

Authorizes the Department of Environmental Protection to expend certain funds for purpose of entering into financial assistance agreements with City of Apalachicola for surface water and groundwater quality improvement projects within Apalachicola Bay Area of Critical State Concern.

#### **HB 847 – Boating Restrictions Surrounding Pumpout Stations**

*Sponsor: Infrastructure Strategies Committee, et al.*

Authorizes counties and municipalities to establish boating-restricted areas for sewage pumpout stations within 100 feet of a Florida Intracoastal Waterway marked channel.

It also removes provisions authorizing local governments to require permitting for certain floating vessel platforms.

#### **HB 1379 – Basin Management Action Plan Requirements**

*Sponsor: Infrastructure Strategies Committee, et al.*

Requires any county or municipality with a basin management action plan (BMAP) within its jurisdiction to include within the capital improvement element of its comprehensive plan a list of projects necessary to achieve the pollutant load reductions attributable to the local government as established in the BMAP.

The measure prohibits the installation of new onsite sewage treatment and disposal systems (OSTDSs) within a BAP area adopted under a reasonable assurance plan or a pollution reduction plan where connection to a publicly owned or investor-owned sewerage system is available. In addition, on lots of one acre or less within such areas where a publicly owned or investor -owned sewerage system is not available, the legislation requires the installation of enhanced nutrient-reducing OSTDSs or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction.

The Department of Environmental Protection (DEP) is authorized by the bill to provide grants for projects that reduce the amount of nutrients entering waters that are not attaining nutrient or nutrient-related standards, have an established total maximum daily load (TMDL), or are located within a BMAP area, a

reasonable assurance plan area adopted by final order, an accepted alternative restoration plan area, or a rural area of opportunity.

The act requires DEP, relevant local governments, and relevant local public and private wastewater utilities, as part of a BMAP that includes an Outstanding Florida Spring, to develop an OSTDS remediation plan for a spring if DEP determines OSTDSs within a BMAP contribute at least 20 percent of nonpoint source nitrogen pollution or if DEP determines remediation is necessary to achieve the TMDL.

Finally, the measure establishes the Indian River Lagoon Protection Program within DEP, and it dedicates \$100 million annually to DEP from the Land Acquisition Trust Fund for the acquisition of lands through the Florida Forever Program.

## Land Management

### HB 7003 – Water Management District Surplus Lands

*Sponsor: Ethics, Elections & Open Government Subcommittee*

Removes a scheduled repeal of exemption from public record requirements for certain information relating to sale, disposal, or exchange of water management district surplus lands.

## Solid Waste

### SB 306 – Catalytic Converter Sales Requirements

*Sponsors: Appropriations Committee on Criminal and Civil Justice*

Creates the "Catalytic Converter Antitheft Act" in order to prohibit a person from knowingly purchasing a detached catalytic converter unless he or she is a registered secondary metals recycler.

# GEORGIA

## Notable Legislation

**HB 374** amends the determination that local municipalities may not "prohibit" utility service based on fuel to also include language referencing "restrict," and it adds "appliance to be used" to the list of items that may not be restricted or prohibited.

**SB 146** declares that the provision of electric vehicle charging services by a person not otherwise subject to the jurisdiction of the Public Service Commission must not be considered a service of an electric utility subject to the authority and jurisdiction of the commission.

## Energy Legislation

### Cybersecurity & Digital Technology

#### HB 800 – Fulton Technology and Energy Authority

*Sponsor: Mainor, et al.*

Renames the Fulton Technology and Energy Enhancement Authority to the Fulton Technology and Energy Authority and terminates the prior board members and replaces them with seven voting members and two ex officio members.

The measure also establishes a Student Advisory Board to offer advice regarding the mission and vision of the authority to its board.

## **Emergency Management & Homeland Security**

### **HB 227 – Critical Infrastructure Definition Revision**

*Sponsor: Leverett, et al.*

Revises the definition of critical infrastructure to include "any other vital public service."

The measure also categorizes critical infrastructure damages into the offense of criminal damage to property in the first degree.

## **Fossil Energy**

### **HR 66 – Motor Fuel and Diesel Fuel Tax Executive Orders**

*Sponsor: Gambill, et al.*

Ratifies Governor Kemp's various executive orders suspending the collection of motor fuel and diesel fuel taxes in response to a state of emergency for supply chain disruptions beginning in May 2022 and continuing through January 2023.

## **Utilities**

### **HB 374 – Prohibiting Utility and Appliance Restrictions**

*Sponsor: Thomas, et al.*

Amends the determination that local municipalities may not "prohibit" utility service based on fuel to also include language referencing "restrict," and it adds "appliance to be used" to the list of items that may not be restricted or prohibited.

The measure also restricts any local prohibition or regulation regarding the use, disposition, or sale or any imposition of any restriction, fee imposition, or taxation at the retail, manufacturer, or distributor setting from creating differing standards for or distinguishing gasoline-powered leaf blowers from any other gasoline-powered, electric, or similar such equipment or any other type of leaf blower.

### **SB 146 – Electric Vehicle Charging Station Regulation**

*Sponsor: Gooch, et al.*

Declares that the provision of electric vehicle charging services by a person not otherwise subject to the jurisdiction of the Public Service Commission must not be considered a service of an electric utility subject to the authority and jurisdiction of the commission.

According to the measure, no electric vehicle charging station that is publicly available, except for community charging equipment, may be provided, owned, operated, or maintained by an electric utility unless such electric vehicle charging station is provided, owned, operated, and maintained by a separate legal entity not subject to the authority of and regulation by the commission.

An electric utility's rates, terms, and conditions of service for the provider of any electric vehicle charging services must be the same as the rates, terms, and conditions of service for any electric vehicle charging stations operated pursuant to the law.

The Commissioner of Agriculture must be authorized to employ electric vehicle charging station inspectors to enforce this act. Such inspectors must be allowed expenses approved by the Commissioner, and investigators must be allowed to serve subpoenas and warrants when violations are discovered.

All electric vehicle charging stations must accurately measure and prominently display the amount of electricity delivered to each electric vehicle on a per kilowatt-hour basis, either directly upon the station or remotely through the use of a digital network, which must be subject to inspection.

The measure also clarifies that the motor fuel tax does not apply to electricity as a fuel. It also declares that the gallon equivalent of electricity must be not more than 11 kilowatt-hours, and the gallon equivalent of hydrogen may be not less than 2.2 pounds.

Finally, on the subject of motor fuels taxation, no hydrogen or electricity sold for uses other than as a motor fuel may be taxed under the act.

## **Environmental Legislation**

### **Coastal Zone Management**

#### **HB 207 – Visual Distress Signals Requirement**

*Sponsor: Rhodes, et al.*

Requires the carrying of night visual distress signals upon coastal waters of the state during certain hours.

#### **HR 651 – Protecting Atlantic Right Whales and the Coast**

*Sponsor: Knight, et al.*

Urges the Georgia Congressional Delegation to assist in finding reasonable solutions to protect North Atlantic right whales and Georgia's coastal culture and economy.

### **Emergency Management & Homeland Security**

#### **HB 311 – Tax Relief in Federal Disaster Areas**

*Sponsor: Smith, et al.*

Provides for optional temporary ad valorem tax relief to certain eligible properties located in nationally declared federal disaster areas.

### **Environmental Health & Justice**

#### **HR 519 – Study Committee on Fishing Access to Freshwater Resources**

*Sponsor: Jenkins, et al.*

Creates the House Study Committee on Fishing Access to Freshwater Resources in order to examine the extent of the public's right to fish in Georgia's freshwater resources, expose any inconsistencies or conflicts in the law between the public's right to fish and private property rights, and determine whether and how to reconcile any such inconsistencies or conflicts to ensure that the taking of fish is preserved for the people and managed for the public good.

### **Hazardous Waste**

#### **HB 31 – Hazardous Waste Fee Usage**

*Sponsor: Buckner, et al.*

Dedicates the proceeds of the fees for hazardous waste management activities and hazardous substance reporting to the Hazardous Waste Trust Fund as authorized and subject to the conditions imposed by the Constitution of Georgia.

## **Inland Water Quality & Management**

### **HB 121 – Wakesurfing and Wakeboarding Regulations**

*Sponsor: Anderson, et al.*

Provides for restrictions and requirements regarding wakesurfing and wakeboarding, such as requiring life jackets for users and a ban on both activities after sunset and before sunrise.

### **SB 178 – Macon Water Authority Act Amendments**

*Sponsors: Kennedy, Lucas, and Paris*

Modifies the Macon Water Authority Act to provide a code of conduct for board members, officers, and employees of the authority.

Such conduct referenced in the act includes a prohibition on engaging in business or a transaction in which that person has a financial interest which is incompatible with the proper discharge of official duties, as well as a restriction on accepting gifts or disclosing confidential information regarding the authority.

### **SR 276 – National Water Safety Month**

*Sponsor: Still, et al.*

Recognizes May 2023 as National Water Safety Month.

## **Land Management**

### **HR 158 – Granting Nonexclusive Easements**

*Sponsor: Greene, et al.*

Authorizes the granting of nonexclusive easements for the construction, installation, operation, and maintenance of facilities, utilities, roads, and ingresses and egresses in, on, over, under, upon, across, or through property owned by the State of Georgia in Calhoun, Camden, Chatham, Clarke, Coffee, DeKalb, Emanuel, Fulton, Jeff Davis, Monroe, Morgan, Polk, Tattnall, Towns, and Washington counties

### **SB 220 – Georgia Farmland Conservation Program and Fund**

*Sponsor: Goodman, et al.*

Establishes the Georgia Farmland Conservation Program and Fund to provide matching grants to certain holders or prospective holders of agricultural conservation easement.

The measure states award grants from the program may include payment:

- To qualified easement holders for the purchase of agricultural conservation easements on qualified farmland, for advancing farmland conservation, and to support active farming and food production in Georgia; or
- For the costs of acquisition related to the purchase of agricultural conservation easements approved by the program.

## **Solid Waste**

### **SB 60 – Catalytic Converter Scrap Requirements**

*Sponsor: Hatchett, et al.*

Prohibits persons not registered as scrap recyclers from purchasing, possessing, obtaining, selling, or attempting to purchase, possess, obtain, or sell used, detached catalytic converters, used utility wire, or used communications copper.



## SB 95 – Recycling Market Development Council Modification

*Sponsor: Robertson, et al.*

Adds a tire industry representative to the membership of the Recycling Market Development Council.

The measure also declares that the fee on new replacement tires is to be paid by distributors rather than retailer dealers.

# KENTUCKY

## Notable Legislation

**SB 226** allows an applicant for a surface coal mining and reclamation operation to request for one-stop shopping for environmental permits and provides that failure of the Energy and Environment Cabinet to adhere to the timelines for Clean Water Act permitting issuances constitutes the making of a final determination, which must allow the applicant to initiate an action in the Circuit Court for the county where the surface coal mining and reclamation operation is located or initiate an administrative hearing.

**SJR 79** establishes the Nuclear Energy Development Working Group under the Energy and Environment Cabinet in order to identify the barriers to the deployment of nuclear power generation and related technologies and to consult with stakeholders to develop recommendations for the role of a permanent nuclear energy commission to be established in state government.

## Energy Legislation

### Fossil Energy

#### SB 226 – Streamlining Surface Coal Mining Permitting

*Sponsor: Turner*

Allows an applicant for a surface coal mining and reclamation operation to request for one-stop shopping for environmental permits and provides that failure of the Energy and Environment Cabinet to adhere to the timelines for Clean Water Act permitting issuances constitutes the making of a final determination, which must allow the applicant to initiate an action in the Circuit Court for the county where the surface coal mining and reclamation operation is located or initiate an administrative hearing.

The law further requires the Energy and Environment Cabinet, when issuing permits under the Clean Water Act for discharges into outstanding state resource waters, to:

- Presume that water quality will be maintained if the permittee complies with technology-based effluent limitations for its industry or with species-specific protection measures imposed on its operations by another state or federal agency;
- Give substantial weight to evidence that discharges from similar operations have not impacted the same or similar threatened or endangered species;
- Not impose conditions that are more stringent than United States Fish and Wildlife Service requirements to protect a threatened or endangered aquatic organism or habitat; and

- Presume that compliance with numeric water quality standards applicable to the discharge must constitute compliance with narrative water quality standards applicable to outstanding state resources waters that support threatened or endangered species.

The bill also states that Clean Water Act Section 401 certifications are limited to water quality impacts from the discharge only, and it prohibits the Energy and Environment Cabinet from delaying the issuance of a Clean Water Act permit based on the need or receipt of any other federal, state, or local permit or certification.

## **Nuclear Energy**

### **SJR 79 – Nuclear Energy Development Working Group**

*Sponsor: Carroll*

**Establishes the Nuclear Energy Development Working Group under the Energy and Environment Cabinet in order to identify the barriers to the deployment of nuclear power generation and related technologies and to consult with stakeholders to develop recommendations for the role of a permanent nuclear energy commission to be established in state government.**

The group is required to submit a report to the Governor and to the Legislative Research Commission on or before December 1, 2023, detailing all work group activity since its establishment and providing recommendations for its stated goals.

## **Renewable Energy**

### **SB 281 – Increasing Usage of Alternative Transportation Fuels**

*Sponsor: Howell*

Specifies that the Office of Energy Policy may implement a strategy to increase the use of ethanol, cellulosic ethanol, biodiesel, and other alternative transportation fuels to levels that are commensurate with the increase in vehicles managed by the Office of Fleet Management that are capable of utilizing those alternative transportation fuels.

## **Utilities**

### **HB 4 – Electric Facility Siting and Transfers of Control**

*Sponsor: Branscum, et al.*

Provides that the terms of service for the ad hoc members of the Kentucky State Board on Electric Generation and Transmission Siting end when the merchant electric generating facility for which they were appointed has been constructed and has begun generating electricity for sale or its construction certificate expires.

The measure also lengthens the period of time that a construction certificate for a merchant electric generating facility is valid from two to three years.

**The measure gives local planning and zoning requirements primacy in decommissioning requirements, and a decommissioning plan must be included in an application for construction of a merchant electric generating facility, according to the bill.**

As part of a decommission plan, the act requires that a bond or similar security be secured to assure that the decommissioning plan is accomplished, and it must establish requirements for how the bond is set and how the beneficiaries of the bond are to be determined.

The law transfers the enforcement authority for mitigation measures that are conditions of application approval from the board to the Energy and Environment Cabinet, and it also transfers the enforcement authority for mitigation measures that are conditions of application approval from the board to the Energy and Environment Cabinet once the facility is constructed and begins generating electricity for sale.

The bill requires that the transferor of control of a merchant electric generating facility remain liable for its decommissioning obligations until the transferee completes the required documentation and the Secretary of the Energy and Environment Cabinet accepts it as complete.

After the application for a construction certificate for a merchant electric generating facility has been approved, the bond required by the act has been posted, the facility has been constructed, and it has begun generating electricity for sale, the secretary of the Energy and Environment Cabinet must ensure the facility's ongoing compliance with the requirements and conditions of its construction certificate approval, including updating its decommissioning plan and bond amounts at least once every 5 years.

If a merchant electric facility fails to complete its decommissioning plan within 18 months of ceasing to produce electricity for sale, then the law requires the cabinet to draw upon the decommissioning bond and **implement the decommissioning plan.**

Finally, while the electric merchant generating facility is operational, the bill requires that if solar panels are removed and discarded, the discarded solar panels be removed from the site within 90 days of the completion of the work.

## HB 9 – Area Development District Grants

*Sponsor: Heath, et al.*

Allows the Department for Local Government (DLG) to partner with the Kentucky Council of Area Development Districts (KCADD) to create and administer the Government Resources Accelerating Needed Transformation (GRANT) Program in order to help Area Development Districts apply for and match grants for public benefit improvements.

According to the bill, some of the eligible uses for the funds are:

- Improving traditional infrastructure, such as water and wastewater treatment facilities, transmission lines, transportation facilities, and flood and wastewater management; and
- Enhancing development of previously mined areas or areas previously used by the coal industry and other industrial activities into uses that diversify the local economy.

## HB 303 – Hydrogen Transmission Investment Eligibility

*Sponsor: Branscum*

Includes companies engaged in hydrogen transmission as eligible companies in the Kentucky Reinvestment Act.

## HR 91 – TVA Appreciation Week

*Sponsor: Freeland*

Honors the Tennessee Valley Authority (TVA) on its 90th anniversary and recognizes May 18-24, 2023, as **TVA Appreciation Week.**

## SB 4 – Coal-fueled Electric Generator Retirement Requirements

*Sponsor: Mills, et al.*

Prohibits the Public Service Commission from approving a request by a utility to retire a coal-fueled electric generator unless the utility demonstrates that the retirement will not have a negative impact on the reliability or the resilience of the electric grid or the affordability of the customer's electric utility rate.

The bill further requires the Public Service Commission to submit an annual report on retirements of electric generating units by December 1 to the Legislative Research Commission.

## SB 192 – Financing Electric Generator Retirement Costs

*Sponsor: Wheeler*

Gives permissive authorization to an investor-owned electric utility to apply to the Public Service Commission to finance through securitization both extraordinary costs and costs associated with the retirement of electric generation of more than \$200 million dollars for a single regulatory asset or more than \$275 million for multiple regulatory assets.

## SR 230 – TVA Appreciation Week

*Sponsors: Carroll, Westerfield, Howell, and Mills*

Honors the Tennessee Valley Authority (TVA) on its 90th anniversary and recognize May 18-24, 2023 as TVA Appreciation Week.

# Environmental Legislation

## Emergency Management & Homeland Security

### SB 99 – Relief Fund Amendments and Required Report

*Sponsors: Westerfield, Howell, Carroll, and Givens*

Re-defines "relief fund," and orders government agency heads, cabinet secretaries, or appointed officials to provide a report and analysis of all relief funds created to accept and expend funds received from any source to provide assistance to entities impacted by an emergency.

## Emissions & Pollution

### HB 160 – Regulating Bioaccumulative Chemicals

*Sponsors: Freeland, Bentley, Bridges, and Heath*

Establishes that any Kentucky Pollutant Discharge Elimination System (KPDES) permittee seeking to rely on a mixing zone for a bioaccumulative chemical concern assigned before September 8, 2004, include information identifying the mixing zone in its application for a modification or approval of a KPDES permit.

The measure also requires that any change or extinguishment in a mixing zone requirement for a bioaccumulative chemical of concern only be accomplished through a formal KPDES permitting action by the Energy and Environment Cabinet to provide that if a KPDES permit applicant requests in their application for a modification or renewal of a permit that the Energy and Environment Cabinet take into account rapid and complete mixing at a wastewater outfall, then the Energy and Environment Cabinet must apply rapid and complete mixing in establishing water quality-based effluent limitations and conditions under the KPDES permit if the discharge occurs through a submerged high-rate multi-port outfall structure.

## HJR 37 – State Air Quality Implementation Plan Updates

*Sponsor: Bauman, et al.*

Directs the Energy and Environment Cabinet to adopt revisions to the state air quality implementation plan to remove the reformulated gas requirement for Jefferson County and applicable parts of Oldham and Bullitt Counties.

## Hazardous Waste

### HB 222 – Hazardous Waste Management Assessment Extension

*Sponsor: Gooch*

Extends the levy of the hazardous waste management assessment until June 30, 2032.

## Inland Water Quality & Management

### SB 213 - Biosolid Regulation

*Sponsor: Higdon*

Requires the Energy and Environment Cabinet to establish new administrative regulations to regulate biosolids from wastewater treatment at a publicly owned treatment works in conformity with, and no more stringent than, federal standards.

### SB 263 – Water Systems Improvements

*Sponsors: Wheeler, West, and Storm*

Clarifies the goal of offering secure water and adding managerial and technical resources as needed resources for the improvement of infrastructure for the security and safety of water systems.

The measure requires the Energy and Environment cabinet to provide technical support to the Kentucky Infrastructure Authority, as well as adds to the purpose of the infrastructure revolving fund to encourage regionalization, merger and consolidation of water and wastewater systems. The authority is required to help water systems develop or maintain asset management plans.

The requirement for one governmental agency water system be a partner in the merger or consolidation is repealed by the act.

### SB 277 – Floodplain Improvements

*Sponsors: Turner and Smith*

Directs the secretary of the Energy and Environment Cabinet to adopt minimum standards for floodplain management.

**The legislation also permits the cabinet to accept and use cooperative agreements.**

Buildings, barriers, or obstructions in floodplains or floodways are prohibited by the bill without approval and a permit from the Energy and Environment Cabinet. The measure also allows the cabinet to require approval prior to construction related to agricultural operations that impact the base flood of a stream.

The bill amends prior law to prohibit encroachment on the reservoir area of any dam in Kentucky.

Finally, the measure directs the Energy and Environment Cabinet to consult with the Kentucky Infrastructure Authority in developing administrative regulations, and it also allows the cabinet to request technical assistance from any agency or organization to carry out its duties.

Finally, the bill adds wastewater to an incentive program targeting water systems with high debt and other problems, and it identifies resiliency as a goal for the water systems and upgrade systems to prevent inflow and infiltration.

## **Land Management**

### **HB 130 – Heavy Equipment Leasing**

*Sponsor: Neighbors, et al.*

Includes heavy or specialized equipment acquired by the Soil and Water Conservation Commission with the types of equipment that the board of a conservation district may make available or lease to landowners and occupiers within the district.

The measure allows the equipment to be used on the lessee's or renter's land or on the lands of others and provides that the purposes of the heavy or specialized equipment are for conserving soil resources, preventing soil erosion, and the conservation and protection of water resources related to those purposes.

### **SB 241 – Conservation Easement Acquisitions**

*Sponsor: Webb, et al.*

Requires the Department of Fish and Wildlife Resources to make the conservation easement acquisitions required under the law instead of the Finance and Administration Cabinet.

The conservation easement transfers are not subject to easement law affecting mining operations provided that the easements stipulate that they will not inhibit coal mining operations.

The bill allows the Department of Fish and Wildlife Resources to work with third parties, contractors, and partners to perform the due diligence necessary to complete the transactions, and it moves the closing date for the acquisitions back to June 30, 2024.

Surveys for the land involved in the transactions may be completed after closing. Funds are required to be held in escrow to reconcile any differences in acreage of the lands once the surveys are completed.

Finally, the act creates one or more engineering and engineering-related Services Section Committees in the Department of Fish and Wildlife Resources and provides for the selection process for the members of the committees.

## **Solid Waste**

### **HR 93/SR 265 – Recycled Asphalt Study**

*Sponsors: Blanton; Higdon*

Requests the Transportation Cabinet to study the increased use of recycled asphalt and report findings to the Interim Joint Committee on Transportation.

# LOUISIANA

## Notable Legislation

**HR 229/SR 123** urges the U.S. Environmental Protection Agency to grant in a timely manner the state's application for primacy in the administration of Class VI injection well permitting.

**SB 100** redefines "advanced recycling facility" as a manufacturing facility, and it adds post-use polymers and recovered feedstocks converted through advanced recycling or held at an advanced recycling facility prior to conversion to the definition of "solid waste."

## Energy Legislation

### Carbon Capture & Storage

HR 229/SR 123 – Requesting Class VI Primacy

*Sponsors: Coussan; Cortez, et al.*

Memorializes the United States Environmental Protection Agency to grant in a timely manner the state's application for primacy in the administration of Class VI injection well permitting.

SR 179 – CCUS Benefits Study

*Sponsor: Cloud*

Establishes the Task Force on Local Impacts of Carbon Capture and Sequestration to study the benefits and revenue streams of carbon capture and sequestration projects.

### Critical Minerals & Rare Earth Elements

HB 455 – Division Order for Minerals

*Sponsor: Coussan*

Clarifies that the concept of a "division order" as provided by prior acts is not limited in application to an instrument setting forth proportional ownership merely in oil and gas but rather in any minerals or other substances.

The amendment also adds a provision that specifies that the Uniform Commercial Code - Secured Transaction governs the creation of security interests in minerals and their proceeds as well as the rights of security interest holders against obligors and third persons.

### Emergency Management & Homeland Security

HB 123 – Emergency Plans for Nursing Homes

*Sponsor: Stagni*

Allows the Louisiana Department of Health (LDH) to exercise discretion to revoke or deny renewal of a license to a nursing home if the nursing home fails to incorporate required changes into an emergency preparedness plan that was previously rejected by LDH.



## **Fossil Energy**

### **HCR 70 – Fossil Energy Company Boycott Reporting**

*Sponsor: Beaulieu, et al.*

Requests the state retirement systems and the State Treasurer to report on companies that do not invest in fossil fuel energy companies.

## **Renewable Energy**

### **HR 118/SR 61 – Renewable Energy Day**

*Sponsor: Orgeron; Hensgens*

Designates Monday, May 8, 2023, as Louisiana Renewable Energy Day at the state capitol.

### **HCR 127 – Attracting Offshore Wind Energy Supply Chain Industries**

*Sponsor: Magee*

Urges and requests the Louisiana Department of Economic Development, in consultation with the Louisiana Workforce Commission, to evaluate the state's readiness for attracting offshore wind energy supply chain industries to the state.

## **Utilities**

### **HB 441 – Utility Service Employee Assault Provisions**

*Sponsor: Bryant*

Amends, for the purposes of prosecuting aggravated assault upon a utility service employee, the definition of utility service to add heat, steam, and sewer services and the definition of utility service employees to include any person employed under contract of any utility service that provides electricity, gas, water, **broadband, cable television, heat, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned.**

### **HR 197 – Utilities and Livestock Producers Collaboration**

*Sponsor: Schexnayder*

Requests electric utility companies to collaborate with livestock producers to allow for the repurposing of **utility poles replaced during resiliency investments.**

### **SB 51 – Energy Transition Costs**

*Sponsor: Milligan*

Specifies that, as part of energy transition costs, the costs for previously mined coal or lignite or for the closure and reclamation of an eligible mine, including land remediation and liabilities, may include costs not previously collected from the electric utility's customers.

According to the bill, it may also costs previously collected from the electric utility's customers but subsequently ordered by the commission to be refunded to customers. Such costs, including any interest component, ordered to be refunded may be included in the energy transition costs being financed by the energy transition bonds regardless of whether the refund credits are given before or after the date the energy transition bonds are issued.

The measure also establishes that a utility may finance energy transition costs that were previously collected from the utility's customers but were subsequently ordered by the commission to be refunded to customers regardless of the date the costs were collected or the date the commission issued the refund order.

## SR 116 – Requesting Offshore Leasing Plan

*Sponsor: Mills*

Requests President Biden and United States Department of Interior Secretary Deb Haaland to immediately adopt a new five-year offshore leasing plan for the Gulf of Mexico to help reduce the cost of energy.

## **Environmental Legislation**

### **Coastal Zone Management**

#### HCR 72 – Mitigation Stewardship Plan Request

*Sponsor: Kerner*

Urges and requests the United States Army Corps of Engineers to reconsider the mitigation and stewardship plan for the Mid-Barataria Sediment Diversion to include tidal levee protection for Lafitte, Barataria, and Crown Point.

#### SCR 6 – Integrated Coastal Protection Plan Approval

*Sponsor: Hensgens, et al.*

Approves the annual state integrated coastal protection plan for 2024, as adopted by the Coastal Protection and Restoration Authority Board.

#### SCR 17 – Comprehensive Master Plan Approval

*Sponsor: Hensgens, et al.*

Approves the comprehensive master plan for integrated coastal protection.

### **Emergency Management & Homeland Security**

#### HCR 58 – Legal Relief Against National Flood Insurance Program

*Sponsor: Zeringue, et al.*

Urges and requests the Louisiana attorney general to seek legal relief against the Federal Emergency Management Agency's new pricing for the National Flood Insurance Program.

#### HCR 108 – Evacuation Route Study

*Sponsor: Willard and Garofalo*

Urges and requests the Department of Transportation and Development conduct a study and make plans relative to emergency evacuation routes for public safety.

### **Emissions & Pollution**

#### HR 39/SR 53 – Penalizing Global Polluters

*Sponsors: Miguez and Garofalo; Kleinpeter*

Memorializes Congress to enact a trade policy that supports United States businesses and workers while penalizing global polluters.

## **Environmental Health & Justice**

### **HB 210 – Authority to Receive Funds from Private Sources**

*Sponsor: Butler*

**Allows the Local Government Environmental Facilities and Community Development Authority to receive, administer, and expend financial assistance, guarantees, insurance, or subsidies from a private source.**

**The authority is also able to loan money to a state agency, according to the bill.**

### **HB 438 – Oyster Seed Ground Gear Permitting Requirements**

*Sponsors: Owen and Garofalo*

**Declares that, in order to harvest oysters from public grounds, a person onboard a permitted vessel must be in possession of a Public Oyster Seed Ground gear permit, and that permit is an extension of the vessel permit and allows the harvesting of oysters from public seed grounds.**

### **HR 68 – Prioritizing Native Plants**

*Sponsor: Thomas*

**Urges and requests Louisiana state agencies to prioritize native plant species in landscaping state properties, excluding the invasive plant species listed in the Louisiana Wildlife Action Plan.**

### **HR 85 – Dogs for Deer Hunting**

*Sponsor: Mincey*

**Urges and requests the Department of Wildlife and Fisheries to research, evaluate, and make recommendations relative to allowing the use of dogs for deer hunting on the Maurepas Swamp Wildlife Management Area.**

### **HCR 3 – Wildlife Refuges Self-Clearing Requirements**

*Sponsor: Beaulieu and Bourriaque*

**Exempts users of the Rockefeller Wildlife Refuge and the Marsh Island Wildlife Refuge from the requirement of completion of a self-clearing permit.**

### **HCR 59 – Proposed Climate-related Disclosures Rule**

*Sponsor: Beaulieu and Amedee*

**Requests the U.S. Securities and Exchange Commission to withdraw its proposed rule with respect to climate-related disclosures for investors.**

### **HCR 85 – Black Bear Hunting Feasibility Study**

*Sponsor: Johnson*

**Urges and requests the Louisiana Department of Wildlife and Fisheries to study the feasibility of allowing a black bear hunting season.**

### **SCR 46 – Red Drum Regulations Request**

*Sponsor: Allain, et al.*

**Urges and requests the Louisiana Wildlife and Fisheries Commission promulgate rules and regulations providing for red drum.**

## SCR 61 – Lower Pearl River Basin Preservation

*Sponsors: Hewitt, Garofalo, and White*

Re-establishes the Lower Pearl River Basin Task Force in order 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 considers necessary or appropriate.

## **Hazardous Waste**

### HB 301 – Eligible Reimbursements with Hazmat Accidents

*Sponsors: Romero and Garofalo*

Adds wrecker service companies working hazardous material accidents to those entitled to reimbursement of remedial costs.

## **Inland Water Quality & Management**

### HB 409 – Stormwater Flooding Management Districts

*Sponsor: Edmonds*

Authorizes parishes and municipalities to create stormwater management utility districts as political subdivisions of the state to manage stormwater flooding.

Such districts are authorized by the bill to create and operate one or more stormwater management utility systems within its boundaries.

### HR 259 – Airboat Safety Solutions

*Sponsors: DuBuisson and Garofalo*

Urges and requests the Department of Wildlife and Fisheries to collaborate with local stakeholders to identify solutions for the regulation of airboats on Bayou Liberty.

### HR 290 – Stormwater Retention Evaluation

*Sponsors: Hodges and Mincey*

Urges and requests the Department of Transportation and Development to evaluate all potential areas in the upper Amite River Basin on potential to detain or retain stormwater runoff through a system of structures.

### SR 104 – Sewerage System Compliance and Rate Setting

*Sponsor: Mills*

Requests the State Bond Commission, the division of administration, and rate setting authorities to consider an applicant's sewerage system compliance status with the Department of Health and the Department of Environmental Quality and financial status with the legislative auditor as a component of their review process.

### SR 189 – One Lake Project Determination

*Sponsor: Hewitt*

Requests the U.S. Army Corps of Engineers to make determinations related to the One Lake project on the Pearl River.

## SCR 22 – Bayou Chene Operational Advisory Committee

*Sponsor: Allain*

Creates the Bayou Chene Operational Advisory Committee to propose recommendations to the St. Mary Levee Board on the operation of the Bayou Chene Flood Protection Structure.

### **Reorganization & Coordination**

#### SB 103 – Renaming the Department of Natural Resources

*Sponsor: Lambert*

Changes the name of the Department of Natural Resources to the Department of Energy and Natural Resources.

### **Solid Waste**

#### HB 297 – Time Limit on Littering Violations

*Sponsors: DeVillier and Knox*

Provides a one-year time limitation for citing intentional and simple littering violations.

#### SB 100 – Advanced Recycling Provisions

*Sponsor: Lambert*

Redefines “advanced recycling facility” as a manufacturing facility, subject to the Department of Environmental Quality regulations for air, water, waste, and land use.

The law adds adhesives and excludes hydrocarbon raw materials, waxes, lubricants, crude oil, naphtha, and other basic hydrocarbons as feedstock products for advanced recycling.

Further, the bill adds post-use polymers and recovered feedstocks converted through advanced recycling or held at an advanced recycling facility prior to conversion to the definition of “solid waste.”

Finally, chemolysis is added by the law as a process that produces advanced recycling products, and it establishes that incineration of plastics and waste-to-energy processes are not “advanced recycling,” and it also adds naphtha and plastic and removes crude oil, diesel, gasoline, and diesel and gasoline blendstocks, home heating oil, and other fuels, including ethanol and transportation fuel as products of pyrolysis.

#### SB 182 – Scrap Metal Recycling Violations

*Sponsors: Connick, Knox, and Garofalo*

Provides that any licensed scrap metal recycler who violates, neglects, or refuses to comply with any provision of present law must be fined not less than \$2,500, nor more than \$10,000, for a first offense.

Violations by unlicensed recyclers are subject to a fine not less than \$1,000 and up to 60 days in jail, according to the measure.

# MARYLAND

## Notable Legislation

**HB 834** requires an electric company that installs or maintains electric vehicle (EV) charging stations for public use or that participates in the EV Pilot Program to maintain uptime standards for each EV charging station in accordance with specified federal or state standards and requirements.

**SB 781** requires the Public Service Commission (PSC) to request that PJM Interconnection conduct an analysis of specified offshore wind transmission system expansion options.

## Energy Legislation

### Cybersecurity & Digital Technology

#### HB 969 – PSC Cybersecurity Requirements

*Sponsor: Qi*

Requires the Public Service Commission (PSC) to include one or more employees that are experts in cybersecurity on its staff.

In supervising and regulating public service companies, the PSC must also consider the protection of a public service company's infrastructure against cyberattack threats. Each public service company, except common carriers and telephone companies, must take specified actions related to cybersecurity, including engaging a third party by July 1, 2024, and every two years thereafter, for a cybersecurity assessment and submitting related certifications of compliance to the PSC.

The bill states that by January 1, 2025, and every two years thereafter, the PSC must submit a report with related information and recommendations to the State Chief Information Security Officer (SCISO), or the SCISO's designee.

#### SB 801 – Cyber Maryland Program

*Sponsors: Hester and Jennings*

Establishes a Cyber Maryland Program in the Maryland Technology Development Corporation (TEDCO) to create a talent pipeline in cybersecurity, serve as a hub for State workforce development programs in cybersecurity, and generally coordinate cybersecurity and research and innovation in the State, among other things.

The bill also creates the Cyber Maryland Fund as a special, nonlapsing fund to be administered by the program.

### Efficiency & Weatherization

#### HB 6 – Energy Conservation in State Buildings

*Sponsor: Hill, et al.*

Requires the Department of General Services to establish and periodically update standards for state buildings to conserve energy and minimize adverse impacts on birds.

The bill further requires the Maryland Green Building Council to include the standards in certain requirements established for the Maryland High Performance Green Building Program, and it defines "state

building" as one acquired, constructed, or renovated by the state or one for which 50 percent of the money for acquisition, construction, or renovation came from state funds.

## **HB 169 – EmPOWER Maryland Program Requirements**

*Sponsor: Charkoudian*

Requires the Department of Housing and Community Development (DHCD) to procure or provide energy efficiency and conservation (EE&C) programs and services for electricity customers for the 2024-2026 EmPOWER Maryland Program cycle.

The EE&C programs and services must be designed to achieve a target annual incremental gross energy savings, compared to 2016, of at least 0.53 percent in 2024, 0.72 percent in 2025, and 1 percent in 2026.

The bill also establishes the Green and Healthy Task Force, staffed by DHCD; it further outlines several reporting and planning requirements for DHCD and the Public Service Commission, including that DHCD develop a plan to provide energy efficiency retrofits to all low-income households by 2031.

## **Emergency Management & Homeland Security**

### **HB 775/SB 542 – Price Gouging Prohibition**

*Sponsors: Jones (Speaker); Ferguson (President)*

Prohibits a person from selling an essential good or service (including a repair or reconstruction service) for a price that exceeds a specified threshold during and, in some circumstances, after a state of emergency.

The bill generally prohibits a person from selling (or offering to sell) goods and services designated as essential by the Governor for a price of 15 percent or more above the highest price at which the person made actual sales or rentals between 60 days before the emergency declaration and four days before the state of emergency.

Further, during a state of emergency and for the 90 days following the end of the state of emergency, a person is prohibited from selling (or offering to sell) repair or reconstruction services used for emergency cleanup for a price that is 15 percent or more than the average price charged during the 30 days before the state of emergency.

## **Fossil Energy**

### **SB 719 – State Fuel Security Program**

*Sponsor: Education, Energy, and the Environment Committee Chair*

Establishes a State Fuel Security Program to be administered and enforced by the Maryland Energy Administration (MEA), and authorizes the collection, analysis, and distribution of energy-related data by MEA to carry out the program.

The program covers motor gasoline, middle distillate, propane, certain residential fuel oil, and aviation gasoline.

## **Renewable Energy**

### **HB 908 – Solar Energy Generating Systems Program Permanent Establishment**

*Sponsor: Clippinger, et al.*

Makes the Community Solar Energy Generating Systems Pilot Program permanent and renames the program accordingly.



The bill requires the Public Service Commission (PSC) to convene a stakeholder workgroup and alter and/or adopt related regulations, and it also extends the availability of the personal property tax exemption for certain community solar generating systems to those approved by the PSC through 2025. A full-time position must be established at the PSC to focus only on implementing and administering the program.

### **SB 469 – Solar Study Incentives Task Force**

*Sponsors: Elfreth and Guzzone*

Establishes the Task Force to Study Solar Incentives to study the types and impact of solar energy incentives **and make recommendations regarding measures and incentives needed to ensure that the state meets the solar energy goals established in its renewable energy portfolio standard, minority business participation, the creation of good quality jobs, equitable access to renewable energy, and efficient use of land.**

The task force is required to submit its report to the General Assembly on or before December 15, 2023.

## **Utilities**

### **HB 111/SB 26 – Low-Income Utility Assistance Final Report**

*Sponsors: Charkoudian, et al.; Augustine and Hester*

Requires the Workgroup on Low-Income Utility Assistance to submit a final report on its study, findings, **and recommendations, including recommended legislation and regulatory changes, to the Senate Finance Committee and the House Economic Matters Committee by January 1, 2024.**

### **HB 149 – Apprenticeship Program for Electricians**

*Sponsor: Hornberger*

Clarifies the Division of Workforce Development and Adult Learning must approve a registered apprenticeship program for electricians.

The measure also substitutes the term “uninsured” for “inactive” in provisions of law relating to liability insurance requirements for master electricians, and it prohibits certain persons from contracting to provide electrical services unless the work is covered by specified insurance. Further, the bill delineates who is **authorized and required to purchase insurance when providing electrical services.**

### **HB 323 – Fuel and Utility Assistance Program Provisions**

*Sponsor: Charkoudian*

Requires the Office of Home Energy Programs to enroll households, based on certain eligibility, in any fuel and utility assistance program and alters the eligibility requirements for the electric universal service program to provide assistance to customers with annual incomes at or below 200 percent of the federal poverty level.

### **HB 513 – Prevailing Wages on Underground Projects**

*Sponsor: Queen*

Requires the Maryland Department of Labor to enforce an existing requirement that specified investor-owned utilities **require contractors and subcontractors to pay their employees at least the applicable prevailing wage on certain underground projects.**

The bill also specifies that the prevailing wage rate for purposes of this requirement is the one determined solely by the Commissioner of Labor and Industry, in a process substantially similar to the process for **determining prevailing wage rates on public works contracts.**

## HB 630 – Bill Forgiveness for Domestic Abuse Victims

*Sponsor: Queen, et al.*

Authorizes a utility account holder who is the victim of abuse to terminate, and requires a utility to allow for the termination of, the account holder's future liability under a utility contract if the account holder provides the utility with certain written notice requesting termination of the account holder's future liability under the contract.

The measure also directs a utility to allow an account holder who terminates a utility contract under the act to open a new utility account notwithstanding a certain account balance or arrearage.

## HB 692 – CPCN Authority

*Sponsor: Crosby*

Specifies that a county or municipality has the authority to approve or deny any local permit required under a certificate of public convenience and necessity (CPCN) issued by the Public Service Commission (PSC).

According to the measure, a county or municipality must approve or deny such a permit within a reasonable time and in accordance with local laws, to the extent that local laws are not preempted by state law. A county or municipality is prohibited from conditioning the approval of a local permit required under a CPCN on receipt of a conditional use approval, a special exception approval, or a floating zone approval for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the CPCN.

## HB 834 – EV Pilot Program Requirement

*Sponsors: Fraser-Hidalgo, Terrasa, Barve, and Reznik*

Requires an electric company that installs or maintains electric vehicle (EV) charging stations for public use or that participates in the EV Pilot Program to maintain uptime standards for each EV charging station in accordance with specified federal or state standards and requirements.

The Public Service Commission (PSC) may impose a civil penalty or take additional remedial action against an electric company that fails to satisfy the uptime requirements. An electric company participating in the EV Pilot Program must maintain an adequate number of staff to monitor, assess, and when necessary, repair the EV charging stations operated by the electric company.

The bill also requires PSC to expand the EV Pilot Program to allow participating electric companies to install EV charging stations in new and existing multifamily dwellings in underserved communities through December 31, 2025, subject to reasonable cost limitations balanced with the public interest.

## HB 910 – Maryland Energy Storage Program

*Sponsor: Fraser-Hidalgo, et. al*

Requires the Public Service Commission (PSC) to establish the Maryland Energy Storage Program and set targets for the cost-effective deployment of new energy storage devices in the state with a goal of achieving at least a cumulative total of 750 megawatts (MW) by the end of the 2027 PJM Interconnection, LLC (PJM) delivery year, 1,500 MW by the end of the 2030 PJM delivery year, and 3,000 MW by the end of the 2033 PJM delivery year.

If a target cannot be met cost effectively, the target must be reduced to the maximum cost-effective amount for the relevant delivery year. The program must be implemented by July 1, 2025, and by December 31, 2023, the PSC must report to the General Assembly on pending designs for the program and any additional statutory changes required to fully implement an effective program to meet the minimum energy storage targets established under the bill.

## HB 1188 – Generating Station CPCN Provisions

*Sponsor: Atterbeary*

Defines “generating station” in the Public Utilities Article and in so doing establishes that generating units or facilities that meet specified requirements may be constructed without obtaining a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission (PSC).

Up to 14 megawatts of capacity can be installed without a CPCN, according to the bill.

The measure also makes a conforming change to align the capacity limit for generating stations with a requirement for certain solar systems to file an application for approval to construct a generating station with PSC and provide a 1 percent deposit, and it codifies and expands the applicability of a requirement in PSC regulations that an electric company provide meter aggregation for certain eligible customer-generators.

The bill declares it is the intent of the General Assembly that the legislation applies only to solar energy generating facilities and eligible customer-generators under the state’s net metering law.

## SB 143 – Net Excess Generation Eligibility

*Sponsor: Feldman*

Authorizes an eligible customer-generator under the state’s net metering law to accrue net excess generation for an indefinite period, instead of only for a 12-month period, subject to specified requirements.

An electric company must pay the customer-generator for any indefinitely accrued net excess generation within 15 days of the close of a customer’s account, according to the measure. The Public Service Commission must establish a method for determining the value of such generation. The authorization does not apply to a customer-generator served by a municipal electric utility or an electric cooperative.

Subscribers under the Community Solar Energy Generating System Pilot Program are likewise authorized to accrue virtual net excess generation in the same manner as described above, and the credit limitation of 200 percent of baseline energy usage is removed.

## SB 781 – Offshore Wind Transmission Analysis

*Sponsors: Hester, Feldman, and Brooks*

Requires the Public Service Commission (PSC) to request that PJM Interconnection conduct an analysis of specified offshore wind transmission system expansion options.

The bill states the PSC must issue, or request that PJM issue, competitive solicitations for proposals for related projects, and it must evaluate the proposals and must ask PJM to assist with the evaluation. The PSC may then accept one or more proposals, subject to specified criteria.

The Department of General Services must issue a procurement and may enter into at least one long-term power purchase agreement for up to 5 million megawatt-hours annually of offshore wind energy and associated renewable energy credits from one or more qualified offshore wind projects. Round 1 and Round 2 offshore wind developers may apply to PSC for a full or partial exemption from the requirement to pass along certain federal benefits to ratepayers.

## **Environmental Legislation**

### **Coastal Zone Management**

#### **HB 465/SB 102 – Crabbing Under the Age of Sixteen**

*Sponsors: Otto and Jacobs; Bailey*

Authorizes an individual under the age of 16 years to use a collapsible trap, net ring, handline, or dip net, as described by the Department of Natural Resources in regulations, when catching or attempting to catch crabs in the waters of the Chesapeake Bay and its tidal tributaries without a recreational crabbing license.

#### **HB 1084/SB 634 – Oyster Inspection Tax**

*Sponsors: Adams, et al.; Mautz*

Increases the amount of the inspection tax levied on marketable oysters shipped in the shell to any place outside the state from 30 cents to \$1 per bushel and increases the amount of the severance tax levied on oysters caught within certain natural oyster bars from \$1 to \$2 per bushel.

Further, the measure requires that \$1 of each \$2 of the severance tax levied be used by certain county oyster committees for the repletion of natural oyster bars within the waters of the counties.

#### **SB 434 – Restorative Aquaculture Pilot Program**

*Sponsor: Klausmeier*

Requires the Department of Natural Resources to establish a Restorative Aquaculture Pilot Program to provide financial incentives to holders of aquaculture leases who maintain the lease in accordance with certain criteria, maintain the restorative conditions for at least four years, and meet any other criteria the Department considers necessary.

### **Emergency Management & Homeland Security**

#### **SB 48 – Disaster Service Leave Applicability**

*Sponsor: Lam*

Expands the applicability of disaster service leave for state employees.

The measure provides for appointing authorities to award this type of leave, and it expands military administrative leave for “military” members to instead apply to “uniformed services” members, as defined by federal law.

Finally, the bill clarifies the definition of emergency manager in reference to the Maryland Department of Emergency Management.

#### **SB 650 – State Disaster Recovery Fund**

*Sponsor: Elfreth, et al.*

Establishes the State Disaster Recovery Fund to provide disaster recovery assistance to units of local government for individuals and families and for the repair, restoration, reconstruction, or replacement of public facilities, low-interest or no-interest loans to businesses and nonprofits when a federal disaster declaration is not received, and disaster-related assistance for the unmet needs of individuals and families after a federal disaster declaration or in the event of a certain denial of federal assistance.

## **Emissions & Pollution**

### **HB 123 – HOV Lane Allowance for EVs**

*Sponsor: Fraser-Hidalgo*

Re-establishes the authorization for any plug-in electric drive vehicle, for which a permit has been applied for and obtained from the Motor Vehicle Administration (MVA), to use all high-occupancy vehicle (HOV) lanes at all times regardless of the number of passengers in the vehicle.

MVA is required to charge a fee, which may not exceed \$20, for issuing a permit, according to the bill.

By January 1 of each year, MVA and the State Highway Administration (SHA) must report to the Governor and the General Assembly on the effect of the use of plug-in electric drive vehicle permits on the operation of HOV lanes in Maryland.

### **HB 230/SB 224 – Zero-emission Medium- and Heavy-duty Vehicle Sales**

*Sponsors: Love, et al.; Augustine, et al.*

Requires the Maryland Department of the Environment (MDE), by December 1, 2023, to adopt regulations that, among other things, establish requirements for the sale of new zero-emission medium- and heavy-duty vehicles in the state, update existing regulations and incorporate by reference the California Air Resources Board's (CARB) Advanced Clean Trucks (ACT) regulations, and take effect starting with model year 2027 (unless delayed by MDE, as authorized under specified conditions).

MDE must also prepare a related needs assessment and deployment plan in consultation with specified state agencies and submit the plan to the General Assembly by December 1, 2024. Finally, the bill increases funding for the Medium-Duty and Heavy-Duty (MHD) Zero-Emission Vehicle (ZEV) Grant Program.

### **HB 261/SB 424 – Maximum Global Warming Potential for Cement or Concrete**

*Sponsors: Kerr, et al.; Elfreth and Feldman*

Requires the Department of General Services (DGS), by January 1, 2026, and in consultation with the Maryland Department of Transportation (MDOT), to establish a maximum acceptable global warming potential (GWP) for each category of cement or concrete mixture used in the construction of an eligible project.

By December 31, 2024, producers of those materials must submit specified environmental product declarations (EPDs) to DGS for analysis. Beginning July 1, 2026, state agencies must specify in each solicitation for a construction project the cement or concrete mixture that will be used in the project and the reasonable minimum usage thresholds below which the bill's requirements do not apply. Contractors may not install any cement or concrete mixture before they submit EPDs, according to the measure.

The bill also establishes an Environmental Product Declaration Assistance Fund, administered by the Department of Commerce, to award grants to producers of eligible materials to support the development, standardization, and transparency of EPDs.

### **HB 470/SB 256 – Oriented Strand Board Burning Prohibition**

*Sponsors: Hill, et al.; Hester, et al.*

Prohibits the setting on fire or burning of oriented strand board for certain fire-fighting training.

### **HB 550 – Electric Vehicle Recharging Equipment Program Extension**

*Sponsor: Fraser-Hidalgo, et al.*

Alters the Electric Vehicle Recharging Equipment Program by extending the duration of the Program through fiscal year 2026 and repealing the rebates that may be issued to retail service station dealers.

The measure also increases the limitation on the total amount of rebates that the Maryland Energy Administration may issue in each fiscal year.

### **HB 830 – EV-ready New Construction**

*Sponsor: Terrasa, et al.*

Dictates that the construction of a new housing unit to include in or on the garage, carport, or driveway one dedicated parking space with electric vehicle (EV) supply equipment that is fully installed (“EVSE-installed parking space”) or one EV-ready parking space.

The bill further requires the Maryland Energy Administration (MEA) to study the cost of requiring EV-ready and EVSE-installed parking spaces at multifamily residential buildings and related issues. MEA must report its findings and recommendations to the Governor and the General Assembly by December 1, 2023.

The act applies only prospectively and does not affect any new construction for which a complete commercial or residential service request is made to the local utility or a development application or building permit application is filed with a county or municipality before the bill’s effective date of October 1, 2023.

### **HB 976 – Workgroup on Mold Standards and Remediation**

*Sponsor: Henson, et al.*

Establishes the Workgroup on Mold Standards and Remediation to study information on mold assessment and remediation to determine the best practices for identifying mold, preventing the development of mold within indoor environments, and remediating indoor molding conditions harmful to public health.

The workgroup must report its findings and recommendations to the Governor and the General Assembly by October 1, 2024.

### **HB 1011/SB 741 – Refrigerant Regulations**

*Sponsors: Stein; Jackson*

Establishes that, notwithstanding any other provision of law, except for regulations issued by the Maryland Department of the Environment, no provision of the state building code or other law or regulation may prohibit or otherwise limit the use of a refrigerant if the refrigerant is designated as acceptable for use in accordance with the federal Clean Air Act, which governs stratospheric ozone protection and a safe alternatives policy for specified substances.

## **Environmental Health & Justice**

### **HB 62 – Utility-designated Pollinator Area Provisions**

*Sponsors: Charkoudian; Augustine*

Prohibits a local government from imposing any unreasonable limitation, including a land use restriction, on a utility-designated pollinator area maintained by a public service company if the area is subject to a Candidate Conservation Agreement between the U.S. Fish and Wildlife Service and the public service company or the public service company maintains and regularly tends to the area by performing or overseeing pollinator-friendly vegetation management, as specified.

### **HB 63/SB 386 – Food From Invasive Species Preferences**

*Sponsors: Charkoudian, et al.; Hester and Bailey*

Expands the Certified Local Farm Enterprise Program’s purpose to include preferences for the purchase of food made from specified invasive species.



Specifically, the bill allows state agencies to count blue catfish (and other certified Chesapeake invasive species) provided by Chesapeake Bay watermen toward the statutory goal of purchasing at least 20 percent of food from certified local farms as that requirement is expanded to encompass purchases from certified Chesapeake invasive species providers.

### **HB 90 – Invasive Bamboo Ordinances**

*Sponsor: Foley, et al.*

Authorizes the governing bodies of counties and municipalities to adopt ordinances to regulate invasive bamboo, including by prohibiting a person from selling, planting, and allowing invasive bamboo to grow on the property of the person without proper upkeep and appropriate containment measures.

### **HB 188/SB 320 – Wildlife Advisory Commission Updates**

*Sponsors: Palakovich Carr, et al.; Brooks, Lam, and Kramer*

Increases the number of members of the Wildlife Advisory Commission from nine to 10 and requires the Governor to appoint one member to the commission who is an academic researcher with expertise in wildlife biology, wildlife conservation, wildlife management, or ecology.

The additional member must serve for a term of four years beginning July 1, 2024, and ending June 30, 2028, and they must serve until a successor is appointed and qualifies.

The bill also establishes that the terms of the commission members are staggered so that three end in 2023, three end in 2024, three end in 2025, and one ends in 2028. However, the bill may not alter the term of a member serving as of the effective date of the bill. The bill also requires that the commission include representation from the hunting, wildlife preservation, and passive wildlife recreation communities.

### **HB 273/SB 399 – Environmental Health Specialist Requirements**

*Sponsors: Alston, et al.; Washington*

Alters the educational and experience requirements for applicants seeking licensure as an environmental health specialist (EHS) and modifies the grounds for which the State Board of Environmental Health Specialists may take disciplinary action against an applicant or licensee.

The measure also repeals the application and fee requirements for an applicant who is retaking the licensing examination to become an EHS.

### **HB 319/SB 158 – PFAS Study**

*Sponsors: Stein, et al.; Hettleman*

Requires the Department of Agriculture, in consultation with certain state and federal agencies, to study the use of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in pesticides in the state.

The department is required to report its findings and recommendations to the Governor, the Senate Committee on Education, Energy, and the Environment, and the House Health and Government Operations Committee on or before November 1, 2023.

### **HB 386/SB 80 – Blue and Flathead Catfishing**

*Sponsors: Jacobs, Arentz, Ghrist, and Otto; Bailey*

Establishes a licensing and regulatory scheme to allow the commercial fishing of blue and flathead catfish in the tidal waters of the state using a finfish trotline.



## HB 406/SB 275 – Wildlife Capture Rules

*Sponsors: Love, Jacobs, and Patterson; Bailey*

Mandates a person who is not required to be licensed or permitted under certain provisions of law to obtain a free Department of Natural Resources identification number before using a snare, a trap, or another similar device to capture wildlife.

The measure also directs a person who uses a snare, a trap, or another similar device to capture wildlife to ensure his or her department identification number is stamped on the device or on a metal tag affixed to the device.

## HB 466 – Sunday Hunting of Game Birds and Mammals

*Sponsor: Otto*

Authorizes the Department of Natural Resources to allow a person in Worcester County to hunt game birds and game mammals on a Sunday, subject to certain time restrictions, during the open season for that game bird or game mammal.

## HB 503 – Greenspace Equity Program

*Sponsor: Stein*

Establishes a Greenspace Equity Program in the Department of Natural Resources to provide grants to eligible applicants to enhance the public health and livability of overburdened communities and underserved communities.

## HB 683/SB 91 – Apprentice Hunting License Provisions

*Sponsors: Morgan, et al.; Bailey*

Authorizes the Department of Natural Resources to issue an apprentice hunting license to a person under the age of 17 years who has previously been issued an apprentice hunting license.

## HB 696/SB 422 – Black Bass Management

*Sponsors: Addison; Bailey, Elfreth, and Mccray*

Establishes the Black Bass Conservation Fund in the Department of Natural Resources as a special, nonlapsing fund to further black bass management.

## HB 950/SB 836 – Maryland Native Plants Program

*Sponsors: Stein, et al.; Brooks*

Creates the Maryland Native Plants Program in order to respond to the increasing demand for, use of, and sale of plants native to Maryland by retail garden centers and retail and wholesale nurseries and to educate the public on native plants.

## HB 983/SB 327 – Heritage Conservation Fund Revisions

*Sponsors: Allen, et al.; Elfreth, et al.*

Alters the purpose of the Heritage Conservation Fund to include acquiring interests in land that can be used by the general public for hunting.

The Wildlife Conservation, Education, and Outreach Program is established by the bill to provide outreach and foster an interest in outdoor recreation and stewardship, hunting, and wildlife conservation.

The measure also establishes a stamp for hunting sika deer and authorizes non-residents attending college to purchase a resident hunting license.

## SB 310 – Black Bear Damage Prevention and Reimbursement Fund

*Sponsors: West and McKay*

Renames the Black Bear Damage Reimbursement Fund to the Black Bear Damage Prevention and Reimbursement Fund and alters the fund to authorize grants from the fund to be made for projects that prevent damages caused by black bears and reduce conflicts between black bears and humans.

## HB 874/SB 611 – Environmental and Natural Resources Crimes Unit

*Sponsors: Stewart, et al.; Bailey, Elfreth, Rosapepe, and West*

Establishes an Environmental and Natural Resources Crimes Unit of the Office of the Attorney General to investigate and prosecute violations of state criminal environmental and natural resources laws.

## SB 718 – Voluntary Cleanup Program Deadlines

*Sponsor: Education, Energy, and the Environment Committee Chair*

Increases the time frame within which the Maryland Department of the Environment must make certain determinations related to the Voluntary Cleanup Program.

The law also modifies provisions related to the recordation of determinations and certificates of completion by specifying that a program participant must provide written evidence that the determination or certificate of completion was presented for recordation in the land records of the local jurisdiction within 60 days of receiving the determination or certificate.

## SB 830 – Environmental Health Specialist Staffing Needs

*Sponsor: Hester*

Requires the Department of the Environment (MDE) and the Maryland Department of Health, in conjunction with the Board of Environmental Health Specialists, to conduct a study on staffing needs for environmental health specialists in local health departments.

It also requires the MDE, in consultation with the Department of Legislative Services and the University of Maryland Agriculture and Food Systems Extension Program, to study the delegation of well and septic systems permitting authority.

## SB 911 – Recreational Fishing License Exemptions

*Sponsor: Simonaire*

Authorizes the Department of Natural Resources to issue an annual recreational fishing license exemption to a governmental entity or a nonprofit organization to provide fishing clinics and instructional opportunities to specified individuals, allowing the individuals to participate in the clinics and instructional opportunities without being licensed.

## **Inland Water Quality & Management**

### HB 11/SB 483 – Water Quality Testing Standards

*Sponsors: Stewart; Lewis Young, Hester, and Rosapepe*

Requires the Department of the Environment (MDE) to adopt regulations by December 31, 2026, to identify additional standards for water quality testing.

The MDE is further required, subject to certain funding and in consultation with the Department of Information Technology, to utilize an online portal to receive and upload water quality information and to provide public access to the information.

## HB 30/SB 7 – Maryland Clean Water Funding

*Sponsors: Stein; West*

Redirects any administrative penalty collected by the Maryland Department of the Environment for a violation of any provision of the Environment Article (which establishes licensing requirements for individuals inspecting on-site sewage disposal systems) from the Septics Account of the Bay Restoration Fund to the Maryland Clean Water Fund, and it also alters the composition of the State Board of On-Site Wastewater Professionals.

## HB 843/SB 880 – Baltimore Regional Water Governance Task Force

*Sponsors: Smith; Sydnor and Carter*

Establishes the Baltimore Regional Water Governance Task Force to study approaches to water and wastewater governance in the Baltimore region and requires the task force to report its findings and recommendations to the Mayor of Baltimore City, the County Executive of Baltimore County, the Governor, and the General Assembly on or before January 30, 2024.

## HB 848/SB 407 – Indirect Potable Reuse Pilot Program

*Sponsors: Rose; Ready and Hester*

Creates the Indirect Potable Reuse Pilot Program in the Department of the Environment for the purpose of authorizing the regulated use of reclaimed water as a source for drinking water treatment facilities.

The measure dictates the issuance of potable reuse permits under the Pilot Program. The department is required to submit a report on the status of the Pilot Program to the Governor and General Assembly on or before December 31, 2024.

## SB 471 – Sediment Control Plan Updates

*Sponsor: Elfreth*

Directs the Maryland Department of the Environment (MDE) to review and update the specifications for sediment control plans by December 1, 2025, and every five years thereafter.

When conducting the review and updates, MDE must:

- Meet specified requirements;
- Consult with specified groups and stakeholders; and
- Ensure that any updates and revisions are not applied retroactively under specified circumstances.

By November 1, 2023, MDE must report to the General Assembly on its plans for reviewing and updating the specifications.

The bill also establishes enhanced public comment requirements for construction activities located in certain sensitive areas, such as the Critical Area Buffer and specified areas identified by the Federal Emergency Management Agency.

## **Land Management**

### HB 289/SB 282 – Maryland Forestry Education Fund

*Sponsors: Stein, et al.; King, et al.*

Establishes the Maryland Forestry Education Fund to expand and enhance the Maryland Forestry Foundation's capacity to provide certain education and resources to forest landowners, the ability of district

forestry boards and the knowledge of local governments to achieve healthy and sustainable forests, and the ability of businesses to test innovative best management practices in forestry.

### **HB 723/SB 526 – Forest Land Management Policy**

*Sponsors: Love, et al.; Elfreth, et al.*

Modifies the state’s policy to encourage the retention and sustainable management of forest lands, while making various changes under the Forest Conservation Act and requiring the Department of Natural Resources to establish a workgroup to evaluate and recommend incentives for private landowners to conserve forest.

### **SB 470 – Land Conservation Goals and Grants**

*Sponsor: Elfreth, et al.*

Establishes land conservation goals for the state, as well as a 40 x 40 Land Conservation Implementation Grant Program and a Local Land Trust Revolving Loan Program (along with an authorization for allocation of specified fiscal 2023 transfer tax revenues to the program).

### **SB 694 – State-owned Property Disposal**

*Sponsor: Jennings*

Authorizes the Department of Natural Resources, subject to certain requirements, to dispose of specified state-owned real property of less than five acres in size, in exchange for privately owned real property, without complying with procedures in current law governing excess real property and the sale, transfer, grant, or exchange of state-owned real property.

## **Solid Waste**

### **HB 586/SB 782 – Soil Amendments Derived from Municipal Waste**

*Sponsors: Stein, et al.; Hester*

Requires the Maryland Green Purchasing Committee (MGPC) to establish specifications for purchasing compost, mulch, or other soil amendments or aggregate produced from municipal solid waste, food waste, dredged material, construction waste, yard waste, clean wood waste, or other recycled or organic materials.

MGPC must publish and maintain the specifications online for use by State agencies. State agencies that purchase compost, mulch, or other soil amendments or aggregate must include the specifications in their solicitations if the products are readily available and competitively priced, and if the quality is satisfactory for the intended purposes.

### **HB 161 – Bond Issuance Prohibition**

*Sponsors: Korman and Szeliga*

Prohibits the Northeast Maryland Waste Disposal Authority from issuing bonds beginning June 1, 2023, and requires the Department of Legislative Services to evaluate the authority and provide enough detail for the General Assembly to determine whether the authority should continue in its current form.

### **HB 253/SB 262 – On-farm Composting Facility Exemption**

*Sponsors: Shetty, et al.; Gallion, Hester, and Carozza*

Requires the Department of the Environment to adopt regulations to exempt an on-farm composting facility from the requirement to obtain a permit if the on-farm composting facility uses 10,000 square feet of area or less for active food scrap composting, composts only certain materials, records the amount and source of off-site type 2 organics composted and the date and time the off-site type 2 organics arrived on

the farm, retains the records for five years, provides records on request, and meets any other condition for a permit exemption.

## SB 222 – Statewide Recycling Needs Assessment

*Sponsor: Augustine, et al.*

Requires the Office of Recycling in the Maryland Department of the Environment (MDE) to hire an independent consultant to conduct a statewide recycling needs assessment.

The Office of Recycling must report the results of the assessment to the Governor and the General Assembly by July 30, 2024. By October 1, 2023, MDE must approve a single producer responsibility organization to represent the interests of producers under the bill.

The bill also establishes the Producer Responsibility Advisory Council to provide advice and make recommendations regarding establishing and implementing a producer responsibility program in the State for packaging materials. The advisory council must report its findings and recommendations to the Governor and specified committees of the General Assembly by December 1, 2024.

# MISSISSIPPI

## Notable Legislation

**HCR 48 & SCR 569** support the Mississippi Clean Hydrogen Hub and urge the government of the United States to select Mississippi's application to be a hydrogen hub.

**SB 2341** maintains state jurisdiction over the integrity of electric transmission infrastructure in order to assure landowner safeguards, transparency, and oversight of customer rates, reliability, and relief.

## Energy Legislation

### Efficiency & Weatherization

#### SB 2339 – Energy Efficiency Standards Extension

*Sponsors: Carter and Jackson*

Extends the repeal on a statute meant to designate standards that promote efficient energy use to be implemented during the design, direction, construction, and alteration of certain buildings to July 1, 2026.

It also provides that any state, county, or municipal building codes may not prohibit or limit the use of federally approved substitute refrigerants.

### Fossil Energy

#### HB 383 – Oil and Gas Reduced Severance Tax Extension

*Sponsor: Powell, et al.*

Extends the date of the repeal on provisions establishing a temporarily reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells and horizontally drilled recompletion wells to July 1, 2028.

## HB 484 – Permanent Petroleum Products Inspection Law

*Sponsor: Pigott*

Deletes the repealer on the sections of law that provide definitions and penalties under the Petroleum Products Inspection Law of Mississippi.

## SB 2297 – Chickasawhay Natural Gas District Compensation

*Sponsor: Blackwell*

Increases from \$200 to \$500 the monthly compensation of the Board of Directors of the Chickasawhay Natural Gas District and increases from \$250 to \$550 the monthly compensation of the chairperson of the board.

## Renewable Energy

### HCR 48/SCR 569 – Mississippi Clean Hydrogen Hub Support

*Sponsors: Roberson; Carter, Kirby, and Butler*

Supports the Mississippi Clean Hydrogen Hub and urges the government of the United States to select Mississippi's application to be a hydrogen hub.

## Reorganization & Coordination

### SB 2562 – Electric Vehicle Charging Station Public-Private Partnerships

*Sponsor: Branning*

Establishes provisions allowing for public and private partnerships to establish electric vehicle charging stations and allows the Mississippi Transportation Commission to provide grants to private companies for the purpose of providing electric vehicle charging stations.

## Utilities

### HB 288 – Public Utilities Staffing

*Sponsor: Bounds*

Establishes that certain personnel and members of the Public Utilities staff may be filled by consulting contract in addition to being competitively appointed by the executive director.

### HB 698 – Transparent Billing Requirements

*Sponsor: Yates*

Ensures the just, reasonable, and transparent billing for municipal water, wastewater, and sewer services.

Specifically, the measure states that rates may not be unreasonably preferential, prejudicial, or discriminatory but must be sufficient, equitable, and consistent in application to each class of users. The law establishes that while a municipality may set different rates for different classifications of users, a municipality may not discriminate in setting rates among members of the same classification.

A municipality must not charge a user a fee for services received which is less than the cost incurred by the municipality to provide such services, and the municipal governing authorities must make a finding on the minutes of the governing body establishing the rate based on the actual cost to operate and maintain the system.



## HB 809 – Public Utilities Staffing Amendment

*Sponsor: Bounds*

Removes the requirement that the Public Service Commission submit to the Governor a list of qualified candidates for the position of executive director of the Public Utilities Staff.

## HB 1060 – Electric Vehicles and Public Utility Definitions

*Sponsors: Anderson and Stamps*

Authorizes electric vehicle (EV) charging by non-utilities and redefines a “public utility” to include persons and corporations, or their lessees, trustees, and receivers owning or operating in the state equipment or facilities for the provision or furnishing of electricity to or for the public, whether an individual person or an entity or a collection of persons or entities, for compensation.

The bill declares the term "public utility" may not include any person who purchases electricity on a metered retail basis from the electric public utility that holds a certificate of public convenience and necessity for the area in which the person is located, and provides or furnishes a portion of that electricity, but not electricity from any other source, to the public for compensation directly and exclusively to charge battery-powered and plug-in hybrid EVs.

## SB 2102 – Excavation Notice Periods

*Sponsor: Carter*

Extends the pre-excavation advance notification period from two working days to three working days and requires excavators to provide advance notice of the commencement, extent, location, and duration of the excavation work to Mississippi 811 for excavations required due to an impending emergency, which includes an excavation start time at least twelve hours prior to excavation.

The measure also requires excavators to provide contact information for a person readily available to discuss the impending emergency excavation with operators and increases the days that the person responsible for the excavation project is required to renew notification with Mississippi 811 from at least two days and not more than three days, to at least three days, and not more than four days prior to the notification expiration date.

The act also extends the time from two to three days that a person owning or operating underground utility lines or underground facilities must make an investigation and report through the use of the positive response information system (PRIS) the status of the work performed from the time notice is provided to Mississippi 811. The bill decreases the hours from four to two hours that operators must contact the excavator to inform him or her of any known underground facilities at the site of the excavation.

Further, the legislation requires that a person owning or operating underground utility lines or underground facilities must, upon receiving advance notice of the commencement of impending emergency excavation, make an investigation and report through PRIS the status of the work performed, prior to the noticed time of excavation provided to Mississippi 811 and either mark the approximate location of underground utility lines and underground facilities in or near the area of the excavation or advise through PRIS that it has no underground utility lines or underground facilities in the excavation area.

## SB 2104 – Mississippi Gulf Coast Region Utility Act Extension

*Sponsor: Carter*

Extends the repeal date on the Mississippi Gulf Coast Region Utility Act to July 1, 2027.



## SB 2341 – State Jurisdiction Over Transmission Infrastructure

*Sponsor: Carter*

Maintains state jurisdiction over the integrity of electric transmission infrastructure in order to assure landowner safeguards, transparency, and oversight of customer rates, reliability, and relief.

The measure also prescribes the requirements for the issuance of a certificate of public convenience and necessity permits to build certain electric transmission facilities in a regional transmission organization.

## SB 2525 – Mississippi Forestry Facility Grant Program

*Sponsors: McCaughn and Hickman*

Creates the Mississippi Forestry Facility Grant Fund and Program to be used for utility, infrastructure, and transportation projects with a \$10 million investment and provides that such funds are administered by the Mississippi Development Authority.

## SB 3110 – Rate Regulation of the Tunica County Utility District

*Sponsor: Jackson*

Deletes the provision of law subjecting the Tunica County Utility District to rate regulation by the Public Service Commission.

## SB 3139 – Shared Resources Between Board of Supervisors Utility Authority

*Sponsors: Seymour and Wiggins*

Authorizes the Board of Supervisors of Jackson County and the Jackson County Utility Authority to share equipment, labor, services, resources, and funds upon such terms and conditions as they may mutually agree.

## SB 3141 – Kemper County Utility District Authority

*Sponsor: Hickman*

Revises the name of the Kemper County Gas District to be the Kemper County Utility District and authorizes the Board of Supervisors of Kemper County, Mississippi, to expand the scope of authority of the Kemper County Gas District to become a county utility district with the authority to administer additional public utility services, including, but not limited to, the provision of drinking water.

## Environmental Legislation

### Coastal Zone Management

#### SB 2544 – Reef and Bottom Land Leasing for Oyster Beds

*Sponsors: Thompson and Moran*

Clarifies the authority of the Mississippi Department of Marine Resources to lease reefs and bottom land for oyster growing and harvesting and to clarify the authority of the department to regulate the taking of oysters and the establishment of new oyster beds.

The bill further requires all lessees to be residents of the state, and it establishes the "oyster production preserve account" within the department's seafood fund, which is earmarked for oyster production management.

## SB 2551 – Powers of the Department of Marine Resources Enforcement Officers

*Sponsor: Moran, et al.*

Includes in the police powers and jurisdiction of the enforcement officers of the Department of Marine Resources all federal laws within the jurisdiction of the state and waters and resources under management of the state.

## **Emergency Management & Homeland Security**

### SB 2538 – Mississippi Emergency Management Association Pre-need Purchases

*Sponsors: Williams, Horhn, McLendon, and Butler*

Directs the Department of Finance and Administration to enter into nine contracts covering each Mississippi Emergency Management Association districts for the pre-need purchase of labor, services, work, materials, equipment, supplies, or other personal property for disaster-related solid waste collection, disposal, or monitoring.

## **Environmental Health & Justice**

### HB 49 – Lifetime Hunting and Fishing License Provisions

*Sponsor: Zuber*

Authorizes the Department of Wildlife, Fisheries and Parks to issue a native son or daughter resident lifetime sportsman hunting and fishing license if official documents reflect that one of the applicant's parents was born in the state of Mississippi and was on active military service at the time of the applicant's birth.

### HB 516 – Conservation Officer Requirements

*Sponsors: Kinkade, Morgan, and Mickens*

Decreases the minimum years of law enforcement experience required to be appointed a conservation officer from five years to two years.

### SCR 550 – Support for Harrison County, Mississippi, Regarding River Diversion

*Sponsor: Thompson, et al.*

Expresses the support of the Mississippi Legislature for the plaintiffs and the ruling of the United States district court in Harrison County, Mississippi, et al. v. the U.S. Army Corps of Engineers regarding the diversion of waters of the Mississippi River through the opening of the Bonnet Carré Spillway.

The resolution requests the Corps of Engineers comply with the ruling and consult with the National Marine Fisheries Service to conserve the essential fish habitat in the Mississippi sound on the Mississippi Gulf Coast.

Further, the resolution expresses support from the Mississippi legislature for the implementation of the federal Magnuson-Stevens Fishery Conservation and Management Act, and it supports the completion of a new environmental impact statement to assess the potential impact of federal actions significantly affecting the quality of the human environment regarding openings of the Bonnet Carré Spillway, including consideration of alternative means of flood control and management on the Mississippi River which could lessen or mitigate adverse impacts to the Mississippi sound estuary and Lake Pontchartrain from operation of the Bonnet Carré spillway and other elements of the Mississippi River and tributaries project.

Finally, the resolution acknowledges the environmental impacts of the recent operation of the Bonnet Carré spillway resulting in decimation of oyster harvests and other essential fish habitat, the Mississippi coast tourism industry and, consequently, the tax bases of local and state governments.

## **Inland Water Quality & Management**

### **HB 522 – Individual On-site Wastewater Disposal System Extension**

*Sponsor: Roberson*

Extends the repealers on the Individual On-site Wastewater Disposal System Law.

### **HB 904 – Kemper Lake Transfer**

*Sponsor: Evans*

Authorizes the Board of Directors of the Tombigbee River Valley Water Management District to transfer Kemper Lake to the Kemper County Board of Supervisors, and it allows the Kemper County Board of Supervisors to transfer Kemper Lake to any water management district that meets certain criteria prescribed by the board.

### **HB 1561 – Master Water Management District Taxation**

*Sponsors: Hood, Stamps, and Boyd*

Removes the requirement that the Board of Supervisors of any county, which has a Master Water Management District within a county, to implement a tax assessment that is levied by the commissioners of a district.

### **HB 1787 – Scenic Rivers Development Alliance Funding**

*Sponsor: Mims*

Authorizes and directs the Scenic Rivers Development Alliance to secure grants, loans, and public funds from the United States of America and the state, including public and nonpublic funds, intended for the public good, the poor, the disadvantaged, and Native Americans.

The measure further authorizes the alliance to incur and issue debt, without ratification from Scenic Rivers Development Alliance or its member counties, and to purchase or acquire and sell property in its own name, without separate ratification from Scenic Rivers Development Alliance or its member counties.

### **SB 2306 – Flood and Drainage Control District Directors**

*Sponsor: Harkins, et al.*

Increases the number of directors for Flood and Drainage Control Districts in municipalities with a population above 100,000 by two.

Of the two, one must be the emergency manager for such municipality and the other an emergency manager for the county in which such municipality is located.

### **SB 2433 – Water Distribution Regulatory Exemptions**

*Sponsor: Michel*

Exempts eligible homeowners' associations in certain municipalities from water distribution regulation as utilities when providing water to its own residents.

### **SB 2444 – Municipality and County Water Infrastructure Grant Program Act Amendment**

*Sponsor: Hopson*

Modifies the Mississippi Municipality and County Water Infrastructure Grant Program Act of 2022, which awards reimbursable grants to make necessary investments in water, wastewater, and stormwater infrastructure, in order to declare the Mississippi Department of Environmental Quality will only accept two rounds of submissions for grants.

## **SB 2512 – Re-allocating Funding for Water or Sewer Projects**

*Sponsors: Younger and Seymour*

Authorizes the County Boards of Supervisors to directly allocate coronavirus state and local fiscal recovery funds made available under the American Rescue Plan Act of 2021 to any publicly-constituted water or sewer association, district, or authority and to municipalities for water and sewer infrastructure projects.

## **SB 2526 – Pat Harrison Waterway District Membership**

*Sponsor: Tate*

Authorizes municipalities located in counties that are not members of the Pat Harrison Waterway District to join the district, and the governing authorities of a member municipality are further authorized to withdraw their municipality from the district.

## **SB 2534 – Fishing Guide Requirements**

*Sponsor: Seymour, et al.*

Requires a freshwater fishing guide or service that uses a boat to obtain a fishing guide boat license and decal.

## **SB 2842 – Defraying Costs on Water and Sewer Infrastructure Improvements**

*Sponsor: DeLano*

Creates special funds in the state treasury to be used to provide monies to assist municipalities in paying costs associated water and sewer infrastructure improvements.

## **SB 3148 – Funding for Water or Sewer Projects via American Rescue Plan Act**

*Sponsor: Younger*

Authorizes the Board of Supervisors of Lowndes County, Mississippi, to contribute available local fiscal recovery funds received under the American Rescue Plan Act to any public utility or water or sewer association operating within the county for the purposes of expanding or repairing water and sewer infrastructure within the county.

## **Reorganization & Coordination**

### **HB 540 – Personal and Professional Services Solicitation Requirements**

*Sponsors: Turner, Ladner, and Hopkins*

Requires the Department of Finance and Administration to conduct personal and professional services solicitations in excess of \$75,000 for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency, and the Mississippi Development Authority.

# MISSOURI

At the time of printing, Missouri had passed only one E&E-related measure. We continue to monitor the state for additional bills awaiting the Governor's signature.

## Environmental Health & Justice

### HR 12 – Opposing Climate Change Risk Disclosures

*Sponsor: Owen*

Urges Missouri to oppose federal rules or regulations requiring companies to disclose climate change risk.

# NORTH CAROLINA

At the time of printing, the North Carolina legislature had passed a handful of E&E bills that were awaiting the Governor's approval.

Look for them in the final version of the Digest this Fall.

# OKLAHOMA

## Notable Legislation

**HB 2542** expands clean-burning motor vehicle fuel property to include equipment installed to modify a motor vehicle that is propelled by a hydrogen fuel cell.

**SB 200** Requires a review of the Oklahoma Carbon Capture and Geologic Sequestration Act adopted in 2009 and a report on recommended changes or statutory adjustments, especially in order to provide for the development of underground injection control Class VI wells.

## Energy Legislation

### Carbon Capture & Storage

#### SB 19 – Biomass Energy Provisions

*Sponsors: Burns, Caldwell, Bullard, and Rogers*

Requires energy produced from biomass to be considered renewable and carbon neutral.

Such biomass energy must be considered carbon negative when the carbon dioxide byproduct, produced as a result of the biomass energy production, is captured.

Energy produced from bagasse biomass must also be considered renewable and carbon neutral. Again, when the carbon dioxide byproduct is captured, bagasse biomass production must be considered carbon negative, according to the measure.

## **SB 200 – Oklahoma Carbon Capture and Geologic Sequestration Act Review**

*Sponsors: Rader and Boles*

Requires a review of the Oklahoma Carbon Capture and Geologic Sequestration Act adopted in 2009 and a report on recommended changes or statutory adjustments.

Specifically, the measure requires the Corporation Commission and Department of Environmental Quality to evaluate the regulatory and statutory framework that governs the agency and identify and report any areas in which modifications may be needed to the Secretary of Energy and Environment to provide for the development of underground injection control Class VI wells.

### **Efficiency & Weatherization**

#### **HB 2472 – Initial Payments for Performance-based Efficiency Contracts**

*Sponsors: Archer, Paxton, and Hill*

Allows public entities to make an initial payment for a performance-based efficiency contract from any funds available at its disposal.

Such payments are required to be offset by savings to the public entity over the term of the agreement. Qualifying contracts include:

- Utility services;
- HVAC improvements;
- Lighting upgrades;
- Air quality betterment; and
- Water efficiency improvements.

### **Emergency Management & Homeland Security**

#### **HB 2561 – Anti-price Gouging on Natural Gas During State of Emergency**

*Sponsors: McBride, Montgomery, and O'Donnell*

Subjects natural gas commodity markets to the anti-price gouging restriction in the Emergency Price Stabilization Act that caps prices of goods and services during a state of emergency.

### **Fossil Energy**

#### **HB 2806 – Energy Resources Board Extension**

*Sponsors: Kendrix and Daniels*

Extends the Oklahoma Energy Resources Board until July 1, 2025, in accordance with the provisions of the Oklahoma Sunset Law.

#### **SB 605 – Clean-burning Motor Vehicle Fuel Property Tax Credit Increase**

*Sponsors: Rader and Pfeiffer*

Increases the percentage of the qualified clean-burning motor vehicle fuel property tax credit that gets calculated each year and transferred to the Compressed Natural Gas Conversion Safety and Regulation Fund from five percent to 12 percent.

## **Nuclear Energy**

### **HB 2802 – Advisory Councils Extension**

*Sponsors: Kendrix and Bergstrom*

Extends the Water Quality Management Advisory Council, the Hazardous Waste Management Advisory Council, the Solid Waste Management Advisory Council, and the Radiation Management Advisory Council within the Department of Environmental Quality until 2026.

## **Renewable Energy**

### **HB 2359 – Renewable Energy Recycling Facility Reporting Requirements**

*Sponsors: Boles and Paxton*

Requires the owner of a renewable energy recycling facility to submit an annual report to the Public Utility Division of the Corporation Commission detailing a current inventory of renewable energy components waiting to be recycled and an estimated timeline and cost for recycling them.

Such facility owners must also submit evidence of having 125 percent of the reported anticipated costs. Failure to submit such information subjects the owner to a \$500 per day penalty, according to the act.

Lastly, a renewable energy recycling facility must pay a \$1,000 annual registration fee to the Corporation Commission when submitting its annual report.

### **HB 2542 – Hydrogen Fuel Cells as Clean-burning Motor Fuel**

*Sponsors: O'Donnell, Woods, and McBride*

Expands clean-burning motor vehicle fuel property to include equipment installed to modify a motor vehicle that is propelled by a hydrogen fuel cell.

## **Utilities**

### **HB 1965 – Expanding Broadband Access via Utility Easements**

*Sponsors: Newton, Howard, and Fetgatter*

Allows electric, telecommunications, and broadband providers to utilize existing electrical utility easements to provide or expand access to broadband services.

The measure prohibits class action lawsuits alleging trespass, nuisance, or inverse condemnation based on a claim of expanded easement use when the broadband facilities are located on above ground property owned or utilized by an electric provider.

Such claims must be brought individually by the property owner. Upon a successful claim by the property owner and payment of damages to the property owner, an electric or broadband provider will be granted a permanent easement for the use of the facilities installed, according to the bill.

### **HB 2241 – Payment Exemption for Removal of Utilities for Certain Municipalities**

*Sponsors: Dobrinski, Murdock, and Patzkowsky*

Exempts all municipally owned utilities serving a population of 10,000 people or less from paying for costs related to the removal of municipally-owned utilities located in public rights-of-way due to state highway or turnpike construction projects.



## HB 2242 – Fee Waiver for Victims of Domestic Violence

*Sponsors: Dobrinski, Pugh, Dollens, and Roe*

Requires public utilities and municipally-owned utility providers to waive the initial credit and deposit requirements for victims of domestic violence.

The measure establishes victims seeking such waivers must have a certification letter proving they are a victim of domestic violence.

## HB 2315 – Electric Vehicle Charging Tax Purview

*Sponsors: Hilbert and Gollihare*

Provides that the Oklahoma Corporation Commission will determine the rates for the electric vehicle charging tax.

## HB 2845 – Electric Supplier Expansion into Unincorporated Areas

*Sponsors: Caldwell and Green*

Prohibits a retail electric supplier from extending its service to an unincorporated area that is not its own property, and to which it is not the closest provider, unless the connected load for initial full operation of the facility is expected to be 1,000 kw or larger.

## SB 497 – Oklahoma Underground Facilities Damage Prevention Act Revisions

*Sponsors: Paxton, Caldwell, and Hader*

Modifies the definitions of "excavate" and "design" or "survey" as they relate to the Oklahoma Underground Facilities Damage Prevention Act.

"Excavate" is modified to mean the moving of earth to bury communication lines in a private or public easement or right-of-way when the depth is not greater than 12 inches and within 12 inches of a communications provider terminal.

"Design" or "survey" means a notice to facility operators to provide underground facility information during the design or engineering phase of a project to mitigate potential impact to existing underground facilities.

The measure requires operators to provide underground facilities information within 14 days of receiving a design or survey notice.

## SB 502 – Oklahoma Electric Vehicle Charging Act

*Sponsors: Hall and Hilbert*

Creates the Oklahoma Electric Vehicle Charging Act, which provides that a retail electric supplier that owns or operates a direct current fast charging station must do so only through a separate, unregulated entity.

The measure also establishes that a municipality that owns or operates an electric charging station that begins operations after the effective date may not use revenues derived by the municipality from the sale of electric power delivered through a municipally owned electric distribution system in order to construct or maintain the electric charging station. The Corporation Commission will have authority to enforce violations of this measure for retail electric suppliers that are rate-regulated by the Corporation Commission.

## **Environmental Legislation**

### **Emergency Management & Homeland Security**

#### **HB 1847 – Emergency Drought Commission Membership**

*Sponsors: Kane, Green, and Kerbs*

Requires any Emergency Drought Commission formed to include one member who lives west of I-35 appointed by the House Speaker and one member who lives east of I-35 appointed by the Pro Tem of the Senate.

#### **SB 230 – Catastrophic Health Emergency Response Plan**

*Sponsors: Daniels and Roe*

Requires the state emergency operations plan to include a plan of response to a catastrophic health emergency.

### **Emissions & Pollution**

#### **HB 2010 – Carbon Monoxide Requirements for Motorized Vessels**

*Sponsor: Davis, et al.*

Requires any motorized vessel to have a carbon monoxide warning sticker in plain view to the interior of the vessel.

#### **SB 852 – Carbon Credits from Methane Emissions**

*Sponsors: Rader and Boles*

Allows the Corporation Commission to measure methane from an orphaned oil, gas, brine, or injection well and obtain any carbon credits that may be available for the measured emissions, with any proceeds from the sale of the credits being used to offset the costs of the programs.

The measure states that the commission may promulgate rules as needed to effectuate the capture of emissions and obtaining of credits under this act.

### **Environmental Health & Justice**

#### **HB 2239 – Terry Peach North Canadian Watershed Restoration Act**

*Sponsor: Dobrinski, et al.*

Creates the Terry Peach North Canadian Watershed Restoration Act that establishes a program to manage and eradicate woody species in the North Canadian River Watershed to be administered by the Oklahoma Conservation Commission.

In administering the program, the commission must cooperate with landowners, state agencies, and other political subdivisions for the removal of harmful woody species. It must also develop grant programs with conservation districts, rural fire departments, and prescribe burn associations with resources needed for prescribed burns, mechanical removal, biological control, or herbicide applications on harmful woody species.

#### **HB 2821 – Climatological Survey Extension**

*Sponsors: Kendrix and Bergstrom*

Extends the Oklahoma Climatological Survey until 2026 in accordance with the provisions of the Oklahoma Sunset Law.

## **SB 648 – Controlling Nuisance Wildlife at Night**

*Sponsors: Bergstrom, Hardin, and Garvin*

Removes the requirement that a landowner or agricultural lessee have a current agricultural tax exemption permit in order to receive a permit to control nuisance wildlife, such as feral swine, at night.

## **SCR 4 – Teaching Hunting and Angling to Youth**

*Sponsor: Stephens, et al.*

Encourages Oklahomans to teach hunting and angling to youth in the state to pass on practices that will protect our natural resources, land, wildlife, and fish for generations to come.

## **Hazardous Waste**

### **HB 2802 – Advisory Councils Extension**

*Sponsors: Kendrix and Bergstrom*

Extends the Water Quality Management Advisory Council, the Hazardous Waste Management Advisory Council, the Solid Waste Management Advisory Council, and the Radiation Management Advisory Council within the Department of Environmental Quality until 2026.

## **Inland Water Quality & Management**

### **HB 1928 – Hazard Mitigation Financial Assistance Fund for Water Resources Board**

*Sponsors : Sims and Rader*

Creates the Hazard Mitigation Financial Assistance Fund for the Oklahoma Water Resources Board in order to provide loans and grants for implementing hazard mitigation planning and projects.

**The bill states eligible entities are able to use the grants to develop an approved local/regional hazard mitigation planning document, acquire land or conservation easements to mitigate hazards, and implement voluntary incentive-based hazard mitigation measures to facilitate compliance with state or national regulations.**

Finally, the measure also clarifies language and broadens the applicability of this measure from flood hazard mitigation projects to include other hazard mitigation projects as well.

### **HB 1982 – Water Quality Issues Purview**

*Sponsors: Boles, Paxton, and Newton*

Declares that comments and hearings on water quality issues within the state fall under the purview of the Environmental Quality Board.

The measure also repeals the ability of the Oklahoma Water Resources Board to adopt, modify, or repeal and promulgate standards of quality of the waters of the state and to classify such waters for the prevention, control, and abatement of pollution.

### **HB 2053 – Groundwater Use While Appealing Permitting**

*Sponsor: Hardin, et al.*

**Allows a groundwater permit applicant whose application has been appealed to take groundwater while their appeal is pending unless the appellant displays a high likelihood their appeal will be granted.**

The measure states that any appeals of an approved groundwater permit filed solely on the basis of the industry or entity applying must be dismissed, and if such appeals are found to be frivolous, the court may impose sanctions against the appellant and/or their attorney and require the reimbursement of reasonable costs.

## HB 2057 – Commercial Flotation Device Regulation

*Sponsors: Hardin, Bergstrom, and Sneed*

Authorizes the Grand River Dam Authority to promulgate rules for the issuance, renewal, revocation, denial, and suspension of licenses for commercial flotation devices on the Illinois River.

## HB 2293 – Oklahoma Flood and Drought Management Task Force

*Sponsors: Pfeiffer, Jech, and Alonso-Sandoval*

Creates the Oklahoma Flood and Drought Management Task Force to be comprised of a management group and an advisory group.

According to the bill, the management group will be led by the Oklahoma Water Resources Board. The task force is required to:

- Develop drought and flood response and recovery initiatives for conditions determined to be detrimental to the state economy and public health;
- Provide coordination among federal, state, and local entities involved in drought and flood assistance programs; and
- Perform flood and drought related assessments as necessary.

Lastly, the measure requires the Oklahoma Water Resources Board to deliver an annual update of drought and flood conditions, and corresponding planning and mitigation activities conducted by the task force, to the House Speaker and Senate Pro Tem, as well as coordinate with the task force every ten years to update the Drought Management Plan.

## HB 2802 – Advisory Councils Extension

*Sponsors: Kendrix and Bergstrom*

Extends the Water Quality Management Advisory Council, the Hazardous Waste Management Advisory Council, the Solid Waste Management Advisory Council, and the Radiation Management Advisory Council within the Department of Environmental Quality until 2026.

## HB 2942 – Oklahoma Water Resources Board Infrastructure Funding

*Sponsor: Wallace, et al.*

Appropriates \$10 million from the Statewide Recovery Fund to the Oklahoma Water Resources Board for the purpose of creating grant programs that help improve water and wastewater infrastructure and certain publicly-owned dams.

Further, the measure appropriates the following amounts from the Statewide Recovery Fund to the Oklahoma Water Resources Board for the following purposes:

- \$15 million to establish a grant program that matches tribal investment in rural water infrastructure projects; and
- \$3.18 million for statewide strategic water infrastructure project.

## **Solid Waste**

### **HB 2802 – Advisory Councils Extension**

*Sponsors: Kendrix and Bergstrom*

Extends the Water Quality Management Advisory Council, the Hazardous Waste Management Advisory Council, the Solid Waste Management Advisory Council, and the Radiation Management Advisory Council within the Department of Environmental Quality until 2026.

## **PUERTO RICO**

### **Notable Legislation**

**HR 559** directs the House Committee on Economic Development to investigate everything related to establishing a Virtual Power Plant that takes advantage of the photovoltaic generation storage systems interconnected to the electricity grid to satisfy peaks of energy demand.

### **Energy Legislation**

#### **Emergency Management & Homeland Security**

### **HB 1597 – Infrastructure Financing Authority Act**

*Sponsor: Ortiz*

Creates an Intergovernmental Committee in charge of preparing a plan for the Infrastructure Financing Authority study for the establishment, implementation, development, financing, construction, and management of the Strategic Fuel Reserve System, which will consist of a system of fuel supply tanks to mitigate the impact of any emergency that occurs in Puerto Rico due to disasters created by nature or man-made.

#### **Renewable Energy**

### **HR 892 – Solar Panels and Energy Storage Batteries**

*Sponsor: Garcia*

Relates to an investigation into the use and management of the \$1 billion assigned to the United States Department of Energy for a program that will have the objective of installing solar panels and energy storage batteries on the roofs of homes for low-income and/or disabled people in Puerto Rico.

#### **Utilities**

### **HR 253 – Power Authority Diesel and Natural Gas Conversion Study**

*Sponsor: Gonzalez*

Orders the House Committee on Government to investigate the adjudication and contracting process between the Electric Power Authority and NFEnergia LLC, for the conversion of units five and six from the San Juan power station for burning diesel to natural gas and for the sale and supply of natural gas for the amount of \$1.5 billion.

## HR 559 – Virtual Power Plant Study

*Sponsor: Santiago*

Directs the House Committee on Economic Development to carry out an exhaustive investigation on everything related to establishing a Virtual Power Plant, which takes advantage of the photovoltaic generation storage systems interconnected to the electricity grid to satisfy peaks of energy demand, as well as resilience to the shuttering of some generating units.

# SOUTH CAROLINA

## Notable Legislation

**HB 3604** appropriates just over \$1 billion to the Department of Commerce in order to provide funding for Project Connect, which is a \$2 billion electric vehicle manufacturing operation helmed by Scout Motors and based in Richland County.

**SB 399** restructures the Department of Health and Environmental Control (DHEC) into two separate agencies: the Department of Public Health (DPH) and the Department of Environmental Services (DES).

## Energy Legislation

### Reorganization & Coordination

#### HB 3604 – Project Connect Funding

*Sponsors: Bannister, Smith, and Murphy*

Appropriates just over \$1 billion to the Department of Commerce in order to provide funding for Project Connect, which is a \$2 billion electric vehicle manufacturing operation helmed by Scout Motors and based in Richland County.

Valid uses of the funds include:

- Bridge to support rail spur construction;
- Land acquisition;
- Required site improvements and mitigation;
- Road access and improvements;
- Soil stabilization;
- Training center;
- Water and wastewater infrastructure; and
- Any such other purpose as is necessary and recommended by the Department of Commerce.

## **Utilities**

### **SB 657 – Chester County Natural Gas Authority Provisions**

*Sponsor: Fanning*

States that all net revenues, as directed by the governing board of the Chester County Natural Gas Authority, may act to supplement the fees charged to its customers so that the customers do not have to bear inordinate increases in their rates when the price of gas to the authority rises precipitously, and the authority must also have access to ready funding when the system requires expansion or extraordinary **maintenance or updating.**

The bill also states board members must be appointed by the Governor upon the recommendation of a majority of the existing board, and such recommendation is approved by the Chester County Delegation, including the Senator. The initial terms of office begin as of the effective date of this act and continue for a term of six years and until the appointment and qualification of their successors. A vacancy in office must be filled for the unexpired term in the manner of the original appointment.

## **Environmental Legislation**

### **Environmental Health & Justice**

#### **SB 101 – Lifetime Disability Combination and Fishing Licenses**

*Sponsor: Campsen*

Allows the Department of Natural Resources to issue a lifetime disability combination license or a lifetime disability fishing license, upon request by applicant, at no cost to a resident of South Carolina who is certified legally blind.

### **Inland Water Quality & Management**

#### **HB 3905 – Edgefield County Water and Sewer Authority Vacancies and Infrastructure Protection**

*Sponsors: Hixon and Clyburn*

Adds physical or mental incapacitation or failure to attend required meetings as reasons the Governor may have to fill a vacancy on the Edgefield County Water and Sewer Authority.

This bill also increases fines for unlawfully damaging or interfering with the facilities of the authority.

#### **HB 3209 – Developmental Approval Period for Land or Water Services**

*Sponsor: Jordan, et al.*

Suspends the running of the period of the development approval that is current and valid between January 1, 2020, and December 31, 2023, for development of a parcel of land or for the provision of water or wastewater services.

#### **SB 478 – Broadway Water and Sewerage District Board Membership**

*Sponsor: Gambrell*

Reduces the number of members of the Broadway Water and Sewerage District Board from nine to seven.



## Land Management

### HB 3209 – Developmental Approval Period for Land or Water Services

*Sponsor: Jordan, et al.*

Suspends the running of the period of the development approval that is current and valid between January 1, 2020, and December 31, 2023, for development of a parcel of land or for the provision of water or wastewater services.

## Reorganization & Coordination

### SB 399 – DHEC Restructuring

*Sponsor: Peeler, et al.*

Restructures the Department of Health and Environmental Control (DHEC) into two separate agencies: the Department of Public Health (DPH) and the Department of Environmental Services (DES).

According to the measure, the Department of Administration must begin the process of analyzing and determining the best manner to restructure and transfer all programs, services, duties, and authority of DHEC to DPH or DES efficiently and effectively.

# TENNESSEE

## Notable Legislation

**HB 319/SB 271** establishes a Brownfield Redevelopment Area Fund to be used by the Department of Environment and Conservation to administer a Brownfield Redevelopment Area Grant Program.

**HB 947/SB 1329** establishes the Tennessee Board of Utility Regulation by merging the Utility Management Review Board and the Water and Wastewater Financing Board into a single entity with 11 board members.

## Energy Legislation

### Carbon Capture & Storage

#### HB 80/SB 261 – Underground Injection Regulatory Limits

*Sponsors: Lamberth, et al.; Johnson and Lowe*

Specifies that underground injection activities authorized by rule are not subject to the general five-year term limit for discharge permits under the Water Quality Control Act of 1977.

### Efficiency & Weatherization

#### HB 213/SB 47 – Energy Efficient Schools Council Extension

*Sponsors: Ragan; Roberts and Bowling*

Extends the Energy Efficient Schools Council to June 30, 2027.

## **HB 799/SB 1377 – Updating Energy Conservation Standards**

*Sponsors: Zachary, et al.; Southerland, Rose, Stevens, and Walley*

Updates the Energy Conservation Standards for a new residential building construction on or after July 1, 2023, to the 2018 International Energy Conservation Code published by the International Code Council.

According to the measure, for new residential building construction on or after July 1, 2023, the energy conservation standards in the 2018 International Energy Conservation Code published by the International Code Council are the state energy conservation standards.

## **Emergency Management & Homeland Security**

### **HB 482/SB 467 – Critical Infrastructure Vandalism Penalty**

*Sponsors: Boyd, et al.; Rose, Bowling, and Taylor*

Increases the punishment, from a minimum of a Class E felony to a minimum of a Class C felony, for a person who commits the offense of critical infrastructure vandalism and the actual damages caused by the offense is at least \$1,000.

## **Fossil Energy**

### **HB 224/SB 58 – Board of Water Quality, Oil, and Gas Extension**

*Sponsors: Ragan; Roberts and Bowling*

Extends the Tennessee Board of Water Quality, Oil, and Gas to June 30, 2028.

### **HB 232/SB 66 – Underground Storage Tanks and Solid Waste Disposal Control Board Extensions**

*Sponsors: Ragan; Roberts*

Extends the Underground Storage Tanks and Solid Waste Disposal Control Board to June 30, 2027, and establishes that any voting member of the board who misses more than 50 percent of the scheduled meetings in a calendar year is removed as a member of the board.

### **HB 319/SB 271 – Brownfield Redevelopment Area Fund**

*Sponsors: Lamberth, et al.; Johnson, Rose, and Yager*

Establishes a Brownfield Redevelopment Area Fund to be used by the Department of Environment and Conservation to administer a Brownfield Redevelopment Area Grant Program.

The measure further creates a franchise and excise tax credit equal to the remediation costs for a brownfield property for a qualified development project in a tier three or tier four enhancement county.

### **HB 993/SB 808 – Primacy and Reclamation Act Amendments**

*Sponsors: Lamberth, Cochran, and Powers; Johnson, Southerland, Yager, and Walley*

Amends the Primacy and Reclamation Act of Tennessee of 1977.

Specifically, the measure requires the state to suspend efforts to obtain exclusive jurisdiction over surface coal mining and reclamation operations within the state under the federal Surface Mining Control and Reclamation Act of 1977 until the Commissioner of the Department of Environment and Conservation (TDEC) notifies the Governor that the following two stipulations have been met:

- The surface coal mining industry in the state is fiscally self-sufficient to support a state-operated program, with revenues from fees and taxes generated from the industry anticipated to meet required expenditures; and

- The state has allocated monies sufficient to address actual and potential liabilities resulting from insufficient bonding relative to surface coal mining and reclamation operations.

The bill also requires TDEC, during any period of suspension, to consult with industry stakeholders regarding the status of surface mining and reclamation operations in Tennessee, and it further compels TDEC, by July 1, 2024, and each July 1 thereafter until July 1, 2028, to submit a report to the Governor, the Speaker of the Senate, and the Speaker of the House of Representatives containing data on both the tonnage of coal severed from the ground in surface coal mining reclamation operations in the state during the prior fiscal year and the amount of projected revenue from acreage fees, severance taxes, permit fees, and amendment fees that would have been required under state law if the state had exclusive jurisdiction over surface coal mining and reclamation operations in the state during the prior fiscal year.

If the Commissioner has not notified the aforementioned individuals prior to July 1, 2028, the measure indicates that any obligation of the state to seek to obtain exclusive jurisdiction over surface coal mining and reclamation operations within the state under the Federal Surface Mining Control and Reclamation Act of 1977 terminates.

### SB 210 – Natural Gas-powered Vehicle Weight Limits

*Sponsor: Massey*

Authorizes, to the extent required by federal law, a vehicle operated by an engine fueled by natural gas or powered primarily by means of electric battery power to exceed vehicle weight limits, up to a maximum gross vehicle weight of 82,000 pounds, under criteria similar to the exception provided for vehicles operated by an engine fueled primarily by natural gas.

### Utilities

#### HB 233/SB 67 – Underground Utility Damage Enforcement Board Extension

*Sponsors: Ragan; Roberts and Bowling*

Extends the Underground Utility Damage Enforcement Board to June 30, 2028.

#### HB 280/SB 986 – Allowable Per Diem for Certain Utility District Board Commissioners

*Sponsors: Butler; Yager*

Increases maximum per diem allowable for commissioners of Utility District Board in Morgan and Roane Counties from \$300 to \$500 per board meeting.

#### HB 296/SB 723 – Electrical Inspections by Certain Registered Engineers

*Sponsors: Freeman, et al.; Yarbrow and Campbell*

Adds authorization for a local government, by a majority vote of its legislative body, to adopt an ordinance or resolution allowing the local government to accept electrical inspections, whether residential or commercial, issued by registered engineers who have a concentration in electrical trades or are certified by the International Code Council in the appropriate field and register as an inspector with the state fire marshal.

The measure also makes it mandatory for a person entering into employment as a municipal or county building, plumbing, mechanical, or electrical inspector with an exempt jurisdiction to perform field inspections as of the date of employment.

## HB 321/SB 273 – Contracts for Road Reconstruction Including Utility Relocation

*Sponsors: Lamberth, et al.; Johnson, et al.*

Defines a “performance-based asset maintenance contract” (PBAM) to provide for managing and performing the inspection, reconstruction, repair, or maintenance of contracted highway facility components, where the contract sets specific performance standards, rather than prescriptive work tasks and deadlines.

Such contracts may include third-party damage repair and claim management services and provide for design, right-of-way acquisition, regulatory permit review and approvals, or utility relocation activities. The measure also authorizes the Tennessee Department of Transportation (TDOT) to enter into agreements with progressive design builders for PBAM.

The measure also modifies registration fees for electric vehicles as follows:

- For all-electric vehicles:
  - On or after January 1, 2024, and prior to January 1, 2027, \$200;
  - On or after January 1, 2027, and prior to January 1, 2028, \$274; and
  - On or after January 1, 2028, and each subsequent year, the \$274 fee must be adjusted by an amount each year to reflect the effect of annual inflation or deflation; limits the maximum annual increase to three percent.
- For hybrid electric vehicles and plug-in hybrid electric vehicles, \$100.

## HB 483/SB 367 – Energy Source and Appliance Restriction Prohibition

*Sponsors: Boyd, et al.; Walley, et al.*

Restricts political subdivisions from prohibiting, based on the type or source of energy to be delivered to an individual customer, the sale or installation of an appliance utilized for cooking, space heating, water heating, or another end use.

## HB 753/SB 1146 – Insurance Compensation Options for Utility District Board Members

*Sponsors: Littleton; Niceley*

Changes a utility district board member's insurance compensation option from payment to reimbursement of payment for premiums paid for equivalent or similar medical insurance coverage and life insurance coverage by the member and allows a utility district board member to receive reimbursement of premiums paid for medical insurance coverage under Medicare and any Medicare supplement insurance policy.

## HB 798/SB 782 – Underground Utility Damage Enforcement Board Membership

*Sponsors: Johnson and Ragan; Walley*

Increases the membership of the executive committee for the Underground Utility Damage Enforcement Board from three to five members by adding two additional board members to the committee.

## HB 802/SB 952 – Excavation Notice Exemptions

*Sponsors: Marsh and Howell; Walley*

Exempts persons from the requirement to provide notice of intent to excavate or demolish if the project utilizes non-mechanized tools or refrains from digging beyond a depth of 12 inches.

The measure authorizes a person responsible for excavation or demolition to designate the location of a proposed excavation or demolition by marking the area with electronic white lining. It also authorizes

the state's one-call service to collect data concerning notice issues and recommend alternatives to the Underground Utility Damage Enforcement Board that would alleviate the number of repeated additional notices required on excavation projects.

#### HB 919/SB 1102 – Utility District Commissioner Term Limits

*Sponsors: Rudder; Bowling*

Clarifies that commissioners for utility districts created pursuant to the Utility District Law of 1937 in Franklin and Marion counties are not prohibited from serving more than two consecutive terms.

#### HB 921/SB 975 – Increase Limit on Contracts Requiring Approval or Competitive Bidding

*Sponsors: Marsh; Powers and Bowling*

Increases, from \$50,000 to \$100,000, the maximum amount that the president of a municipal energy authority or the superintendent of a municipal electric plant may contract for without the governing body's approval or procuring through competitive bidding.

If a municipal electric plant has jurisdiction over waterworks, sewerage works, gas, telecommunications, cable television, internet, or broadband systems, and the superintendent of the electric plant serves in a similar role for such utility systems, then the bill states the increase in threshold applies to contracts for those systems as well.

#### HB 946/SB 1389 – Approved Sources of Clean Energy

*Sponsors: Boyd, et al.; Southerland, et al.*

Requires a political subdivision that imposes requirements or expectations related to the source of clean energy used by a public utility to include the following as permissible sources:

- Solar energy;
- Photovoltaic cells and panels;
- Hydropower;
- Wind power;
- Hydrogen fuel;
- Nuclear power;
- Natural gas;
- Fuel cells;
- Energy from waste-to-energy facilities;
- Energy storage systems or technologies;
- Geothermal energy;
- Dedicated crops grown for energy production;
- Industrial byproduct technologies that use fuel as energy that is a byproduct of an industrial process;
- Waste heat recovery from capturing and reusing the waste heat in an industrial process for heating or generating mechanical or electric work;
- Combined heat and power systems;

- Pump storage hydropower; and
- Compressed air energy storage.

The bill further requires a political subdivision that imposes requirements or expectations related to the source of renewable energy used by a public utility to include the following as permissible sources:

- Solar energy;
- Photovoltaic cells and panels;
- Hydropower;
- Wind power;
- Hydrogen fuel;
- Geothermal energy;
- Biomass;
- Renewable natural gas; and
- Nuclear power.

#### HB 947/SB 1329 – Board of Utility Regulation

*Sponsors: Boyd and Williams; Reeves*

Establishes the Tennessee Board of Utility Regulation by merging the Utility Management Review Board (UMRB) and the Water and Wastewater Financing Board (WWFB) into a single entity with 11 board members.

The measure transfers all ongoing business and the supervision of all entities of the UMRB and the WWFB to the board and expands the board's customer complaint authority, and it gives the board regulatory authority over local natural gas systems and utility authorities that provide natural gas.

The bill also deletes the requirement that a utility district publish a financial statement after the close of the fiscal year, and it creates the Utility Revitalization Fund to allow the board to provide mitigation grant payments to assist with the merger or consolidation of utility systems.

#### HB 948/SB 845 – Lineworker Appreciation Day

*Sponsors: Boyd, et al.; Bailey and Bowling*

Designates the second Monday in April of each year as "Tennessee Lineworker Appreciation Day."

#### HB 1572/SB 1563 – Bolivar Energy Authority Spending Threshold

*Sponsors: Shaw; Walley*

Increases the maximum threshold, from \$50,000 to \$100,000, that the board of directors of the Bolivar Energy Authority is authorized to set for purchases by the chief executive officer that do not require board approval.

The measure is subject to local approval in Bolivar.

## **Environmental Legislation**

### **Emissions & Pollution**

#### **HB 1346/SB 1147 – Private Property Rights**

*Sponsors: Powers, et al.; Niceley, Bailey, Pody, and Rose*

Prohibits this state and its political subdivisions from adopting or implementing policy recommendations that deliberately or inadvertently infringe or restrict private property rights without due process, as may be required by policy recommendations originating in, or traceable to, "Agenda 21," adopted by the United Nations in 1992 at its Conference on Environment and Development, the 2030 Agenda for Sustainable Development and the U.N.'s proposal to reach net zero emissions by 2050, or any other international law or ancillary plan of action that contravenes the constitution of the United States or the constitution of this state.

### **Environmental Health & Justice**

#### **HB 205/SB 39 – Department of Environment and Conservation Extension**

*Sponsors: Ragan and Todd; Roberts*

Extends the Department of Environment and Conservation to June 30, 2027.

#### **HB 227/SB 61 – Heritage Conservation Trust Fund Board of Trustees Extension**

*Sponsors: Ragan; Roberts and Bowling*

Extends the Tennessee Heritage Conservation Trust Fund Board of Trustees to June 30, 2028.

### **Inland Water Quality & Management**

#### **HB 150/SB 127 – Chickamauga Creek Classification**

*Sponsors: Hazlewood, Vital, and Martin; Watson and Gardenhire*

Designates certain segments of Chickamauga Creek as Class I natural river areas.

#### **HB 407/SB 639 – Paddlecraft Purview**

*Sponsors: Reedy and Faison; Niceley*

Limits the Fish and Wildlife Commission's authority to regulate paddlecraft rental operations to commercial operations that lease or rent nonmotorized vessels for noncommercial use by the public on the waters of Tennessee and/or utilize vessel launches or ramps, or other property, owned or managed by the Tennessee Wildlife Resources Agency.

#### **HB 447/SB 464 – Duck River Classification**

*Sponsors: Cepicky, et al.; Hensley, Campbell, and Yarbrow*

Designates a segment of the Duck River in Maury County as a Class II scenic river and requires permitting of certain water resource projects in Class II scenic river areas, subject to rules promulgated by the Commissioner of Environment and Conservation.

#### **HB 523/SB 407 – Aquatic Resource Alteration Permitting**

*Sponsors: Haston and Todd; Hensley*

Authorizes the Department of Environment and Conservation (TDEC) to issue an aquatic resource alteration permit (ARAP) to a person in connection with the removal of sand, gravel, and similar sediments or deposits from streams or wetlands.



The measure requires, if the person who has been issued an ARAP for commercial removal of sand, gravel, and similar sediments, that the person is deemed to have recovered such sediments from a stream or wetland owned by the state and to compensate the state at a price equal to 2.5 percent of the market value of the finished product.

TDEC is prohibited by the bill from granting any permit associated with the removal of sand, gravel, or similar sediments from streams or wetlands located on private property unless the permit applicant owns the property, owns the mineral estate, or has received written consent from the private property owner and has submitted documentation of such ownership or consent to the TDEC.

### **HB 1056/SB 628 – Construction Stormwater Permitting**

*Sponsors: Vaughan, et al; Taylor and Rose*

Adds to the bill of rights for permit applicants under the Water Quality Control Act the right to have their **construction stormwater permit applications considered based on the activities described in the permit application and conditions that exist at the time the permit application is under consideration, rather than possible future conditions unrelated to the activities for which the permit is sought as identified in the application.**

### **Land Management**

#### **HB 1026/SB 1307 – Forest Tracts Acquisition**

*Sponsors: Butler, Sexton, and Vital; Bailey*

Authorizes expenditures from the 1986 Wetland Acquisition Fund to acquire forest tracts within Cumberland County adjacent to the Catoosa Wildlife Management Area known as the "Oakley Tract(s)," including lands adjacent thereto.

#### **HB 1561/SB 1551 – Eminent Domain Usage in Sumner County**

*Sponsors: Slater, Garrett, Lamberth, and Grills; Haile*

Prohibits public entities in Sumner County from using eminent domain to acquire privately-owned real property for parks, trails, paths, or greenways for walking, running, hiking, bicycling, or equestrian use, unless the property is parallel to, runs directly along the length of, and extends in the same direction as a **highway, road, or street.**

#### **HJR 55 – Cumberland Trail State Scenic Trail as State Trail**

*Sponsor: Lamberth, et al.*

Recommends the designation of the Cumberland Trail State Scenic Trail as a state scenic and recreational **trail.**

### **Solid Waste**

#### **HB 111/SB 126 – Solid Waste Disposal Fee Penalties**

*Sponsors: Capley and Littleton; Walley*

Requires the solid waste disposal fee imposed by Wayne County or a municipality or solid waste authority in Wayne County to be subject to the same penalty and interest as delinquent property taxes if not paid within 30 days after notice of such fee is mailed.

## HB 232/SB 66 – Underground Storage Tanks and Solid Waste Disposal Control Board Extensions

*Sponsors: Ragan; Roberts*

Extends the Underground Storage Tanks and Solid Waste Disposal Control Board to June 30, 2027, and establishes that any voting member of the board who misses more than 50 percent of the scheduled meetings in a calendar year is removed as a member of the board.

## HB 1568/SB 1556 – Murfreesboro Solid Waste Authority

*Sponsors: Terry; Reeves and White*

Authorizes the creation of a Solid Waste Authority, subject to local approval in Murfreesboro, Tennessee.

## SJR 153 – Litter Awareness Month

*Sponsors: Yager, Jackson, and Powers*

Recognizes March 2023 as Tennessee Litter Awareness Month.

# TEXAS

At the time of printing, dozens of E&E bills were awaiting the Governor's signature. Look for those in the final edition of the Digest this Fall.

## Notable Legislation

**HB 4018** permits Texas Parks and Wildlife Department to enter into agreements with public or private entities for the purposes of developing carbon sequestration or similar ecosystem services projects on lands under the department's jurisdiction.

**SB 1866** authorizes an electric utility to provide backup electric service to a nonresidential retail customer through a customer-sited distributed generation facility.

## Energy Legislation

### Carbon Capture & Storage

#### HB 4018 – Carbon Sequestration Agreements on Lands Under TPWD Jurisdiction

*Sponsor: Ashby, et al.*

Amends the Parks and Wildlife Code as it relates to the use of land Texas Parks and Wildlife Department (TPWD) land and revenues deposited to the credit of certain dedicated accounts.

The measure permits TPWD to enter into agreements with public or private entities for the purposes of developing carbon sequestration or similar ecosystem services projects on lands under the department's jurisdiction.

The bill does not authorize TPWD to enter into agreements to develop carbon dioxide injection wells on department land. Revenue generated under these agreements on land primarily used for game or fish conservation must be deposited to the credit of the Game, Fish and Water Safety Account No. 9. Revenue generated under these agreements on land primarily used for parks, recreation, or historic sites must be deposited to the credit of the State Parks Account No. 64.

## **Cybersecurity & Digital Technology**

### **SB 1929 – Virtual Currency Mining Provisions**

*Sponsors: Johnson, Menendez, and Dean*

Revises the Utilities Code to require the Public Utility Commission of Texas (PUC) by rule to require a person operating a virtual currency mining facility who enters into an agreement for retail electric service in the ERCOT power region to register the facility receiving service as a large flexible load if the facility load is interruptible and the person anticipates that the facility will require a total load of more than 75 megawatts before the second anniversary of the date the agreement begins.

The adopted rules must require such a person to register the large flexible load with the PUC not later than one business day after the date the agreement begins and to provide the PUC with the location of the facility and the anticipated demand from the facility for the five-year period beginning on the date of the registration.

The bill also requires the PUC to adopt by rule criteria for determining whether a load is interruptible for purposes of the bill's provisions based on whether it is possible for the facility operator to choose to interrupt the load and to establish by rule a method to ensure compliance with the bill's provisions. The bill authorizes the PUC to share with ERCOT large flexible load registration information.

Finally, the measure defines "virtual currency mining facility" as a facility that uses electronic equipment to add virtual currency transactions to a distributed ledger and defines "virtual currency" by reference as a digital representation of value that is used as a medium of exchange, unit of account, or store of value and is not legal tender, whether or not denominated in legal tender, but specifically excluding the following:

- A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency; or
- A digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

## **Efficiency & Weatherization**

### **HB 2263 – Natural Gas Energy Conservation Educational Programs**

*Sponsors: Darby, Hughes, and Eckhardt*

**Allows a local natural gas distribution company to provide customers and prospective customers with an energy conservation educational program pending approval by the state's Railroad Commission.**

The bill further allows distribution companies to recover the costs of energy conservation programs if approved by the commission. A company seeking to recover the costs must apply to the railroad commission before beginning recovery of the costs and at least once every three years after the date the company first applies for the cost recovery.

If the commission approves the local distribution company's application or approves the application with modifications, the company may recover costs prudently incurred to implement the energy conservation programs, including costs incurred to design, market, implement, administer, and deliver an energy conservation program.

## **Emergency Management & Homeland Security**

### **SB 1598 – Homeland Security Advisory Council Jurisdiction**

*Sponsors: Hancock and Guillen*

Removes references to specific legislative committees and adds broader terminology to ensure the committees with jurisdiction over veteran affairs and homeland security are included in the Homeland Security Advisory Council makeup.

### **SB 2013 – Background Checks for Prospective Electric Grid Employees**

*Sponsor: Schwertner, et al.*

Entitles an independent organization certified under prior law for security reasons to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who has or is seeking employment at or access to the independent organization's systems that affect the security of the electric grid or any other background information maintained by DPS that relates to the person that is considered necessary by the independent organization or required by the Public Utility Commission.

The measure also prohibits an independent organization from registering a business entity or maintaining the registration of a business entity to operate in the power region for which the independent organization is certified unless the business entity attests that the entity complies with Chapter 113 (Prohibition on Agreements With Certain Foreign-Owned Companies in Connection With Critical Infrastructure), Business and Commerce Code, as added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular Session, 2021.

## **Fossil Energy**

### **HB 450 – Bad Faith Washouts for Oil and Gas Leases**

*Sponsors: Craddick, Burrows, Morales, and Hughes*

Authorizes a person to bring a cause of action for a bad faith washout of the person's overriding royalty interest in an oil and gas lease in a district court of a county in which any part of the property subject to the lease is located and entitles the person to a remedy from that action in specific situations.

The measure also requires the person to bring the action not later than the second anniversary of the date the person obtained actual knowledge that the washout occurred. Additionally, the bill authorizes an owner who prevails in action to recover actual damages, court costs, and attorney's fees, and the enforcement of a constructive trust on the oil and gas lease or mineral estate acquired to accomplish the washout of the overriding royalty interest. These remedies are cumulative of other remedies provided by common law or statute.

### **HB 3599 – Motor Fuel Tax and Motor Vehicle Registration Fee Exemptions**

*Sponsor: Thierry, et al.*

Provides nonprofit food banks with an exemption from payment of motor fuel taxes and motor vehicle registration fees.

### **HB 3651 – Motor Fuel Tax Definitions**

*Sponsors: Bailes and Nichols*

Redefines, in order to eliminate tax fraud, several terms related to motor fuel taxes.

Specifically, the measure:

- Removes the term "mounted" from the definition of "cargo tank" to ensure that transferring fuel into any cargo tank qualifies as a taxable transaction, regardless of whether the tank is affixed to a vehicle used to transfer the fuel;
- Defines "container" to include any receptacle used to store motor fuel;
- Defines "delivery" to ensure that any transfer of fuel constitutes a delivery; and
- Modifies the definition of "motor fuel" to include any motor fuel capable of use for a motor vehicle licensed on a public highway to expand the types of motor-fuel-powered vehicles beyond those using gasoline or diesel, such as compressed or liquified natural gas;
- Classifies individuals who illegally acquire and transport motor fuel as "motor fuels transporters" and subjects them to violations for failure to obtain the appropriate license;
- Broadens the definition of "transport vehicles" to include any vehicle used to carry motor fuel, including a motor vehicle, such as modified cars, vans, box trucks, or pickup trucks that fall outside the current definition of transport vehicle; and
- Adds the act of "receiving" motor fuel to ensure taxes are due on each subsequent sale of motor fuels, even if the individual is only receiving the fuel with the intent to sell or resell for profit.

#### **HR 441/SR 243 – Texas Energy Day**

*Sponsors: Goldman; Birdwell*

Recognizes Texas Energy Day at the State Capitol on March 7, 2023.

#### **SB 502 – Liability Protections for Oil and Gas Operators**

*Sponsors: Hughes, Zaffirini, Darby, and Morales*

Clarifies a previous law by providing a tort liability shield for oil and gas operators who choose to send their drill cuttings and associated wastes for commercial recycling and/or commercial disposal.

#### **SB 1210 – Orphaned Oil and Gas Well Geothermal Conversion**

*Sponsor: Blanco, et al.*

Allows a geothermal operator to adopt an orphaned oil and gas well to convert it into a geothermal electricity production well.

### **Nuclear Energy**

#### **SB 1592 – Texas Radiation Advisory Board Membership**

*Sponsors: LaMantia, West, and Herrero*

Adds a licensed veterinarian as a 19th member of the Texas Radiation Advisory Board, instead of requiring the representative from agriculture to be a licensed veterinarian.

### **Renewable Energy**

#### **HB 3526 – Solar Pergola Provisions**

*Sponsors: Raymond and Springer*

Prohibits a municipality from applying a municipal building code to the construction of a solar pergola.

## SB 786 – Authority Over Closed-loop Geothermal Injection Wells

*Sponsor: Birdwell, et al.*

Removes closed-loop geothermal injection wells from the regulative authority of the Texas Commission on Environmental Quality and places them solely under the regulatory authority of the Railroad Commission.

### **Utilities**

## HB 697 – Fuel Gas Piping Disclosures

*Sponsor: Holland, et al.*

Adds corrugated stainless steel tubing (CSST) fuel gas piping disclosures to the home seller's list of required disclosures.

The seller must note whether the house was built with black iron pipe, CSST, or copper, according to the measure.

## HB 1391 – Wireman Licensing Requirements

*Sponsor: Schaefer, et al.*

Modifies the requirements to obtain a wireman license to include an option for a career and technology educational program.

## HB 1500 – Utilities Code Amendments

*Sponsor: Holland, et al.*

Amends the Utilities Code to continue the functions of the Public Utility Commission (PUC) of Texas, the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region until September 1, 2029.

The bill allows PUC to increase the maximum daily administrative penalty the agency may impose for a violation of a voluntary mitigation plan and requires them to review such plans at least once every two years.

The measure also expands and clarifies the Independent Market Monitor's (IMM) reporting to PUC and requires PUC to report to the Legislature annually the number of instances the IMM reported potential market manipulation and other information as prescribed by the Legislature. PUC is restricted from allowing the IMM from appearing, speaking, or providing analysis to the Legislature, and ERCOT is prohibited from modifying the IMM's contract without majority approval by PUC.

The legislation allows PUC to establish guardrails on the performance credit mechanism (PCM), including an annual cost cap of \$1 billion and requires PUC to direct ERCOT to procure dispatchable reliability reserve services (DRRS). A generator receiving credits through the PCM program is prohibited from decommissioning or removing from service any dispatchable electric generating facility while participating in PCM, unless it was after September 1, 2028, required by federal law, or alleviated significant financial hardship for the generator. PUC must adopt rules to implement this provision. PUC will define how ERCOT must calculate and allocate the cost of providing ancillary/reliability services, including requiring ERCOT to allocate on a semiannual basis.

The act establishes the Grid Reliability Legislative Oversight Committee to oversee PUC's implementation of recent electric market legislation and will require retail electric providers (REPs) to annually report retail sales to PUC.

Reliability requirements are established by the bill for generation facilities in the ERCOT power region and directs PUC to require ERCOT to enforce the requirements. PUC is required to direct ERCOT to perform an



evaluation with input from ERCOT's Technical Advisory Committee (TAC) to examine whether allocating the costs of ancillary and reliability services would result in a net savings to consumers in the ERCOT region.

The bill incorporates an instructional provision that requires PUC to require ERCOT to implement DRRS by December 1, 2024, and requires PUC to implement generator reliability requirements by December 1, 2027. PUC and ERCOT are required to study the consumer costs associated with preparing for, preventing, and responding to weather emergencies and power outages and report to the Legislature by December 1, 2024, and study costs on alternatives to a single market clearing price and report to the Legislature by December 1, 2025.

Further, the legislation requires that when PUC gives a directive to ERCOT through a memorandum or a written order, it must be adopted by majority vote. The agency is also to engage in a contested case or rulemaking process to direct ERCOT to take an official action that will create a new cost or fee, increase an existing cost or fee, or impose significant operational obligations on an entity.

The measure demands PUC to require a provider of electric generation service to provide ERCOT with the reason for unplanned service interruptions within a reasonable time after the interruption of the service has impacted generation availability. ERCOT is required to summarize the reasons for unplanned service interruptions in a publicly available report published on ERCOT's website by the third business day after the service was restored.

Also, the act requires PUC to establish a reasonable allowance for costs incurred by transmission-owning utilities to interconnect generation resources to the ERCOT transmission grid. The allowance should take historical interconnection costs, potential to reduce consumer costs, and any other factors PUC considers reasonable into account. Any costs in excess of the allowance must be directly assigned to and collected from the generation resource. PUC must review and can adjust for inflation or supply chain issues every five years. PUC's first review can happen five years after adoption of the rules required to implement established laws, which must happen within 180 days of effective date of this act. The law is applicable to generators that execute a standard interconnection agreement with a transmission-owning utility on or after January 1, 2026.

Finally, the legislation requires PUC to direct transmission and distribution utilities (TDUs) to perform a circuit segmentation study and submit a report to PUC by 2024. PUC is directed to review each study by 2025.

## HB 2073 – Provisions for Review and Adjustment of Utility's Fuel Factor

*Sponsor: Price, et al.*

Revises the Utilities Code to set out provisions relating to the review and adjustment of an electric utility's fuel factor, which are a replacement for the requirements for the Public Utility Commission of Texas (PUC) to render a timely decision approving, disapproving, or modifying the adjustment to a utility's fuel factor and provide by rule for the reconciliation of a utility's fuel costs on a timely basis and the requirement for the procedures implemented by the PUC providing for the timely adjustment of a fuel factor to require that an affected party receive notice and have the opportunity to request a hearing before the PUC.

The bill requires the PUC rules that implement the procedures providing for the timely adjustment of an electric utility's fuel factor to ensure the utility collects as contemporaneously as reasonably possible the electric fuel and purchased power costs that the utility incurs and the utility's under-collected or over-collected balance of electric fuel and purchased power costs is collected from or refunded to customers through adjustment of the utility's fuel factor not later than the 90th day after the date the balance is accrued.



The legislation authorizes the PUC, on a finding that an electric utility has an under-collected balance that is the result of extraordinary electric fuel and purchased power costs that are unlikely to continue, to direct the utility by order to adjust the utility's fuel factor to defer recovery to take place over a period not to exceed two years, with the utility receiving on the balance during the recovery period a return set at the utility's most recently established weighted average cost of capital set in a base rate case.

A customer of the electric utility, a municipality with original jurisdiction over the utility, or the Office of Public Utility Counsel are authorized to protest an established fuel factor and establishes as the sole issue that may be considered in the protest whether the factor reasonably reflects costs the utility has incurred or will incur so that the utility is not substantially over-collecting or under-collecting the utility's reasonably stated fuel and purchased power costs on an ongoing basis, including the true-up of any over- or under-collected balance. The bill requires the PUC, on a finding that the utility is over-collecting or under-collecting on that basis, to order the utility to modify the utility's fuel factor to reflect the utility's costs and attempt to remedy any over-collected or under-collected position before the 90th day after the date the PUC issues the order more accurately.

An electric utility is required to apply to reconcile the utility's electric fuel and purchased power costs at least once every two years and not later than the 180th day after the last day of the period to be reconciled. The bill authorizes the PUC by rule to establish the calendar year timing of the reconciliation period for each electric utility to facilitate efficient work by the PUC. To the extent a reconciliation results in a change to the utility's under-collected or over-collected fuel balance, that change must be incorporated into the utility's fuel factor to eliminate any resulting under-collected or over-collected balance in commensurate increments over a three-month period. The bill also authorizes the PUC to extend the three-month period for a reasonable time if the utility demonstrates that the change in the fuel balance will impact the utility's financial integrity. The bill establishes that the prudence of the costs the utility has incurred or will incur so that the utility is not substantially over-collecting or under-collecting the utility's reasonably stated fuel and purchased power costs on an ongoing basis may be considered only in the fuel reconciliation proceeding.

Finally, the act requires an electric utility, the first time the utility applies to reconcile its fuel costs and purchase power costs after the PUC adopts the rules required to implement the requirement to do so, to include in the application any previous periods that have not been addressed in a prior reconciliation proceeding.

## HB 2664 – Personal Information Disclosures from Utilities

*Sponsors: Tepper and Perry*

Amends the Utilities Code to include among the entities to which a government-operated utility may disclose personal information in a customer's account records a retail electric provider or another entity as necessary to facilitate the transition of customers among retail electric providers or as necessary to comply with rules, guidelines, and procedures established by the Electric Reliability Council of Texas.

## HB 3096 – Electricity Supply Chain Reporting

*Sponsors: Guillen and Schwertner*

Requires the Texas Energy Reliability Council, not later than December 1, rather than November 1, of each even-numbered year, to submit to the legislature a report on the reliability and stability of the electricity supply chain in this state.

## HB 3390 – Distributed Generation Requirements

*Sponsors: Hunter, Schwertner, and Zaffirini*

Amends the Utilities Code to remove provisions requiring an owner or operator of distributed generation to register with the Electric Reliability Council of Texas (ERCOT) and interconnecting transmission and distribution utility (TDU) information necessary for the interconnection of the distributed generator.

The bill authorizes ERCOT instead, at its own discretion, to establish protocols to require a person who owns or operates a distributed generation facility interconnected to a utility system operating in the ERCOT power region, or who seeks to interconnect such a facility, to provide to the interconnecting electric cooperative, municipally-owned utility, or TDU information about the distributed generation facility that ERCOT determines is necessary for maintaining system reliability. It further authorizes the protocols to require that the information be provided as a condition to interconnection for any facility that is interconnected on or after September 1, 2023. These provisions are applicable to an electrical generating facility, including an energy storage facility, that is connected at a voltage less than 60 kilovolts and is capable of being connected in parallel operation to the utility system and they replace the provision in current law defining "distributed generation" as a facility that may be located at a customer's point of delivery, is connected at a voltage less than 60 kilovolts, and may be connected in parallel operation to the utility system.

ERCOT is authorized to establish protocols to require a transmission service provider operating in the ERCOT power region to report to ERCOT, in aggregate by delivery port, information ERCOT determines is necessary for maintaining system reliability regarding distributed generation facilities and distribution-connected loads that are not registered with ERCOT and are connected to the utility systems served by the provider. The bill also allows ERCOT to establish protocols to require a municipally-owned utility, electric cooperative, or TDU that is not required to report load information directly to ERCOT regarding the delivery points interconnected with its facilities to provide information to the utility's or cooperative's transmission service provider for purposes of that report. The bill defines "transmission service provider" as a municipally-owned utility, electric cooperative, or TDU that owns or operates facilities used for the transmission of electricity.

The measure also establishes, with respect to a distributed generation facility interconnected before September 1, 2023, any protocols ERCOT establishes under the bill applicable to a municipally-owned utility, electric cooperative, or TDU may require a municipally-owned utility, electric cooperative, or TDU to do the following:

- Request information about the distributed generation facility from the owner or operator of the facility; and
- In the absence of any timely response to the request for information, or if the information reasonably appears to be incorrect, provide to its transmission service provider a good-faith estimate of the information based on field observation or other data using reasonable engineering judgment.

Finally, a municipally-owned utility, electric cooperative, or TDU, in fulfilling any reporting obligation, is authorized to rely on any existing record regarding the information required for a distributed generation facility, if the municipally-owned utility, electric cooperative, or TDU reasonably believes the information is accurate.

## SB 604 – Landman Services Modification

*Sponsors: King and Hefner*

Amends the definition concerning landman services to include "other energy sources" in their purview.

“Other energy source” is defined in the Occupations Code as a natural resource (other than a mineral) that is necessary to produce energy, including geothermal, hydroelectric, nuclear, solar, and wind energy.

The measure further defines "mineral" to include oil, gas, related hydrocarbons, coal, lignite, uranium, and substances classified as base, industrial, precious, or strategic minerals.

### **SB 1002 – EV Charging Station Provisions**

*Sponsors: Schwertner, West, and Hernandez*

Modifies the Utilities Code to prohibit the Electric Reliability Council of Texas (ERCOT) utilities from **directly providing electric vehicle (EV) charging services unless those services are on their own property and used solely for charging their own vehicles and recovering the cost of an EV charging station through rates approved by the Public Utility Commission of Texas (PUC).**

The bill allows utilities outside the territory of ERCOT to provide charging services directly to the customer under circumstances as defined in the bill, and it requires the PUC to receive applications from utilities and **set rates that are reasonable and do not impair competition.**

The measure allows individuals other than the electric utility to notify the impacted area of their petition of their own intention to provide charging station services before the 90th day after PUC has approved the utilities proposal to construct a similar charging station. PUC must reject the utilities proposal if **the individuals notice proves the provisions in the bill or the utilities proposal unreasonably duplicates a charging service of another, or a facility being constructed that another person will use for charging services.**

### **SB 1016 – Electric Utility Employee Compensation and Establishing Rates**

*Sponsors: King, Dean, and Guillen*

Directs the Public Utility Commission of Texas to presume as reasonable when establishing an electric utility's rates, the total compensation paid to the electric utility's employees as long as that pay is consistent **with recent market compensation studies.**

### **SB 1017 – Fuel Source Regulation**

*Sponsor: Birdwell, et al.*

Prevents political subdivisions in Texas from adopting or enforcing any regulation that prohibits or restricts the use, sale, or lease of an engine based on its fuel source.

The bill also prohibits political subdivisions from enacting regulations that would limit access to an energy source or that results in the effective prohibition of a wholesaler, retailer, energy producer, or related infrastructure that is necessary to provide access to a specific energy source.

### **SB 1076 – Transmission Facility Application Process**

*Sponsors: King and Geren*

Requires the Public Utility Commission of Texas to approve or deny an application for a certificate for a new transmission facility not later than the 180th day after the date the application is filed, rather than the first anniversary of the date the application is filed.

### **SB 1093 – Electricity Supply Chain Map Provisions**

*Sponsors: Schwertner and Metcalf*

Adds roads and water facilities to the Electricity Supply Chain Map.

The bill also adds the executive director of the Texas Department of Transportation to the mapping committee to ensure road crews have pertinent information needed during disasters or weather emergencies.

Additionally, the act allows the committee to provide electric utilities, cooperatives, gas facility operators, and gas pipeline operators view-only access to their specific portion of the map. Electric utilities and memoranda of understanding are required to provide the Public Utility Commission with their service area boundary map in a geographic information system format by September 30, 2023.

### SB 1112 – Background Checks by PUC

*Sponsors: Schwertner, Zaffirini, and Guillen*

Allows the Public Utility Commission of Texas (PUC) to conduct background checks on employees.

The bill also requires PUC to conduct background checks on potential employees who will have access to confidential information related to the grid or verify the employee holds an occupational license and passed a background check before the license was issued.

### SB 1170 – Utility Billing and Customer Choice

*Sponsors: Perry and Tepper*

Provides that a municipally owned utility that opts for customer choice and does not sell electric energy to retail customers is not required to bill directly for distribution, transmission, and generation services provided to retail electric customers located in its certified service area.

The measure authorizes a retail electric provider to provide billing services for distribution, transmission, and generation services provided to those customers and deletes existing text providing that a customer **that is being provided wires service by a municipally owned utility at distribution or transmission voltage** and that is served by a retail electric provider for retail service has the option of being billed directly by each service provider or to receive a single bill for distribution, transmission, and generation services from the **municipally owned utility**.

The bill also authorizes, rather than requires, a municipally owned utility, on its initiation of customer choice, to designate itself or one or more other entities, rather than another entity, as the provider or providers of last resort for customers within the municipally owned utility's certificated service area as that area existed on the date of the utility's initiation of customer choice. The municipally owned utility is required to fulfill the role of default provider of last resort in the event no other entity is available to act in that capacity if the municipally owned utility continues to sell electric energy to retail customers after the initiation of customer choice. The municipally owned utility is able to delegate the authority to designate the provider or providers of last resort to the Public Utility Commission of Texas (PUC).

The legislation requires the applicable provider of last resort, if a customer is unable to obtain service from a retail electric provider or a municipally owned utility or electric cooperative offering customer choice, on request by the customer, to offer the customer the standard retail service package for the appropriate customer class, with no interruption of service, at a fixed, non-discountable rate that is at least sufficient to cover the reasonable costs of providing that service, as approved by the governing body of the municipally owned utility that has authority to set rates. It also requires the PUC to set the rate each provider of last resort is authorized to charge if a provider of last resort is designated by the PUC.

## SB 1778 – Public Utility Cancellation Options

*Sponsors: Alvarado, Rogers, and Oliverson*

Establishes options for delivery of the application for convenience to a water service customer and efficiency by the retail public utility to initiate, cancel, or transfer service.

The measure allows a retail public utility to initiate, cancel, or transfer service to a customer upon receipt of an application request through United States mail, the telephone, the internet, or by other electronic transmission.

## SB 1866 – Distributed Generation Backup Electric Service Provisions

*Sponsor: Nichols, et al.*

**Authorizes an electric utility to provide backup electric service to a nonresidential retail customer through a customer-sited distributed generation facility.**

The Public Utility Commission of Texas (PUC) is required to, on the petition of an electric utility, establish just and reasonable rates for backup electric service supplied using a customer-sited distributed generation facility provided that costs are allocated as follows:

- If the facility is capable of directly supplying energy to the distribution system or of disconnecting the host customer from the distribution system when not being used to supply backup electric service to the host customer and thereby reducing system load, the PUC is required to allocate the cost of owning and operating the facility between the host customer and the electric utility's broader customer base, including an allocation of any margins from energy sales attributable to the facility to the host customer in reasonable proportion to the allocation of nonfuel costs; and
- The allocation of nonfuel costs to the host customer is required to be based on the cost to purchase, install, interconnect, own, operate, and maintain the facility that is above the electric utility's levelized avoided cost to install, own, operate, and maintain a single-cycle combustion turbine, on a per kilowatt basis, grossed up for avoided line losses based on the utility's transmission and distribution line loss factors last approved by the PUC.

The measure further requires that the cost of the facility allocable to the utility's broader customer base, in a rate proceeding in which an electric utility seeks to recover investment in a customer-sited distributed generation facility that is interconnected to the utility's distribution system:

- The full cost of the utility's investment is eligible for recovery; and
- The cost of the facility and backup electric services revenues is required to be allocated among customer classes on the same basis used to allocate the utility's distribution-level investments.

## SB 1965 – Streamlining Utility Acquisitions

*Sponsors: Alvarado and Thompson*

Requires the Public Utility Commission to adopt an expedited sale, transfer, or merger process to streamline utility acquisitions for temporary managers in the specific case of operational abandonment and lack of access to the current owner's signature.

## SB 2627 – Dispatchable Generation Resources Loans and Completion Bonuses

*Sponsors: Schwertner, Alvarado, Bettencourt, and Hunter*

Creates a completion bonus and zero-interest loan for new dispatchable generation resources in order to address critical energy generation system issues.

The measure also provides low-interest loans for existing dispatchable generators as a mechanism for generators to access capital needed to maintain and make necessary improvements to existing generation resources.

Specifically, the act authorizes the Public Utility Commission to use money in the fund without further appropriation to provide grants to be used for transmission and distribution infrastructure and electric generating facilities in this state outside the ERCOT power region for:

- Facility modernization;
- Facility weatherization;
- Reliability and resiliency facility enhancements; or
- Vegetation management.

## **SJR 93 – Texas Energy Fund Constitutional Amendment**

*Sponsors: Schwertner and Hunter*

Proposes a constitutional amendment providing for the creation of the Texas Energy Fund to support the construction, maintenance, modernization, and operation of electric generating facilities.

## **Environmental Legislation**

### **Emergency Management & Homeland Security**

#### **HB 3223 – Disaster District Committee Appointments**

*Sponsors: Guillen and Hughes*

Requires the chair of the emergency management council, rather than the public safety director of the Department of Public Safety of the State of Texas, to appoint a chair of each disaster district committee based on the declared disaster and phase of disaster response in accordance with the National Incident Management System guidelines, rather than appoint a commanding officer from the Texas Highway Patrol to serve as chair of each disaster district committee.

The chair of each disaster district committee is required by the act to inform the chair of the emergency management council, rather than the state Director of Homeland Security, on all matters relating to disasters and emergencies as requested by the chair of the emergency management council.

### **Emissions & Pollution**

#### **HB 3014 – Electric Vehicle Emission Exemptions**

*Sponsors: Harri and Zaffirini*

Exempts electric vehicles that solely use electricity as their power source from inspection requirements related to emissions and exhaust systems.

#### **SB 505 – Registration Fees for Certain Vehicles**

*Sponsor: Nichols, et al.*

Requires an additional registration fee of \$400 for a vehicle with a two-year initial inspection period and \$200 for a vehicle with a general one-year inspection period.

The measure states the fees collected under this law must be deposited in the State Highway Fund.



## SB 784 – Regulating Greenhouse Gas Emissions

*Sponsors: Birdwell and Landgraf*

Provides that, to the extent not preempted by federal law, the state has exclusive jurisdiction over the regulation of greenhouse gas emissions within its borders.

The bill further clarifies that a municipality or other political subdivision may not enact or enforce an ordinance or other measure that directly regulates greenhouse gas emissions.

## SB 1213 – Mold Assessment and Remediation Advisory Board

*Sponsors: Zaffirini and Goldman*

Establishes a Mold Assessment and Remediation Advisory Board to advise the Texas Department of Licensing and Regulation and the Texas Commission of Licensing and Regulation on issues affecting mold assessment and remediation.

## SB 1364 – Vehicle Weight Limits for Electric and Natural Gas Semitrucks

*Sponsors: Alvarado, Lujan, and Lopez*

Increases the maximum gross vehicle weight for electric semitrucks to 82,000 pounds.

The bill allows electric and natural gas semitrucks to exceed the current overall gross weight limit for comparable conventional fuel vehicles by up to 2,000 pounds.

## SB 1732 – Electric Vehicle Charging Station Standards

*Sponsors: Hancock and Patterson*

Requires the Texas Department of Licensing and Regulation, in consultation with the Texas Department of Transportation, to adopt standards for electric vehicle charging stations that require the charging stations to be equipped with a standard electric vehicle charging connector or plug type that is widely compatible with as many electric vehicles as practicable by December 1, 2024.

## SB 1860 – Climate Charter Prohibition

*Sponsors: Hughes, Kolkhorst, and Craddick*

Prohibits a municipality from holding an election for voter approval of a proposed climate charter unless the legislature adopts a resolution approving the proposed climate charter.

## **Environmental Health & Justice**

### HB 260 – Appraising Land In or Adjacent to a Wildlife or Livestock Disease or Pest Area

*Sponsors: Murr and Perry*

Requires the chief appraiser, in calculating net to land of open-space land located in or adjacent to a wildlife or livestock disease or pest area, to take into consideration the effect that the presence of the applicable disease or pest or the designation of the area has on the net income from the land for ad valorem tax purposes.

### HB 1809 – Cultivated Oyster Mariculture Advisory Council

*Sponsors: Hunter, Kolkhorst, Eckhardt, and Hinojosa*

Creates the Cultivated Oyster Mariculture Advisory Council to expedite restorative alternatives to the damaging effects of mechanical dredging of oyster reefs and to evaluate the fees, lease payments, and bureaucratic hurdles applied to cultivated oyster mariculture.



## HB 4057 – Conservation District Opt-out

*Sponsors: DeAyala and Huffman*

Allows property owners in a conservation district a one-year time period to opt out of the conservation district under a newly created deed.

## HCR 77 – Texas Wildlife and Conservation Month

*Sponsors: Kuempel and Zaffirini*

Designates November as Texas Wildlife and Conservation Month for a 10-year period beginning in 2023.

## HJR 126 – Right to Farm, Ranch, and Manage Wildlife

*Sponsor: Burns, et al.*

Proposes a constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management.

## SB 1032 – Oyster Fisher Private Leases Program

*Sponsors: Kolkhorst and Hunter*

Allows for the expansion of the private lease (certificate of location) program in the oyster fishery.

The measure also redefines a "natural oyster bed" is to allow for more area where leases could be sited and will aid in restoration and oyster resource recovery by allowing leases in areas that will be considered as degraded, and it removes the need to transplant to have an oyster lease which reflects the reality of how leases are used in most recent times.

## SB 1424 – State Soil and Water Conservation Board Continuation and Duties

*Sponsor: Perry, et al.*

Revises the Agriculture Code to continue the State Soil and Water Conservation Board (TSSWCB) under the Texas Sunset Act until September 1, 2035, and to removes language that subjects statutory provisions relating to soil and water conservation to expiration under that act.

The measure also codifies TSSWCB's dam structural repair grant program by requiring TSSWCB to develop and implement a grant program to provide grants for the structural repair and maintenance of flood control dams. The bill requires TSSWCB, with input from stakeholders, to establish goals, criteria, and metrics for the grant program and assess the need for funding the structural repair and maintenance of flood control dams throughout Texas, including the number of projects a grant sponsor can complete each year.

The act also authorizes the Texas Invasive Species Coordinating Committee to:

- Serve as a catalyst for cooperation between state agencies in the area of invasive species control;
- Facilitate governmental efforts, including efforts of local governments and special districts, to prevent and manage invasive species;
- Make recommendations to state agencies regarding research, technology transfer, and management actions related to invasive species control;
- Provide technical information and input to regional and national invasive species control coordination efforts, including the National Invasive Species Management Plan;
- Facilitate the review of committee technical decisions and work product by specialists and interested persons; and

- Report as needed to the governor, lieutenant governor, and speaker of the house of representatives on committee plans, work product, and accomplishments.

## SJR 32 – Concerning Conservation and Reclamation Districts Authority to Issue Bonds

*Sponsors: Blanco and Moody*

Proposes a constitutional amendment relating to the authority of the legislature to permit Conservation and Reclamation Districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities.

## Inland Water Quality & Management

### HB 692 – Dairy Waste Rules

*Sponsor: Rogers, et al.*

Modifies the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to issue an authorization by rule for land application of dairy waste and to adopt rules governing that land application.

The rules must do the following:

- Minimize the risk of water quality impairment caused by the land application; and
- Prescribe the conditions under which an authorization is issued, including the following:
  - The duration of the authorization;
  - The location of the land application unit;
  - The maximum quantity or application rate of dairy waste that may be applied or disposed of under the authorization;
  - The suggested agronomic application rate for the dairy waste or other beneficial uses of the dairy waste; and
  - Best management practices for the handling and disposal of dairy waste.

The measure further amends the Water Code to require the TCEQ, to the extent permitted by federal law, to adopt rules to allow the following the disposal of dairy waste from a concentrated animal feeding operation into a control or retention facility, including a lagoon or play.

The rules must do the following:

- Minimize the risk of water quality impairment caused by the disposal of dairy waste into the control or retention facility and by the land application by irrigation associated with that disposal; and
- Require best management practices to ensure that the disposal of dairy waste into the control or retention facility does not impair water quality.

### HB 1535 – San Antonio River Authority Sunset Review

*Sponsor: Clardy, et al.*

Sets the next review of the San Antonio River Authority (SARA) under the Texas Sunset Act to be conducted during the 2034-2035 review cycle.

The measure repeals provisions requiring SARA to prepare a master plan for the maximum development of its soil and water resources and that require the state auditor to annually audit the authority for a fiscal year

that runs from July to June, and it revises SARA's authority to set a penalty for a violation of an applicable SARA rule or regulation to align that authority with the authority of certain water districts to set a penalty for a violation of a district rule under the Water Code.

### **HB 1565 – Texas Water Development Board Sunset Review and Project Review Process**

*Sponsor: Canales, et al.*

Revises the Texas Water Development Board's (TWDB's) next sunset review date to 2035 and continues the State Water Implementation Fund for Texas Advisory Committee for 12 years.

The measure also authorizes TWDB to implement a risk-based approach to project review, and it requires TWDB to develop, collect, and analyze performance metrics and establish goals for evaluating its project review process.

**The bill requires regional water planning groups to include in regional water plans implementation updates about large projects, including status updates about expenditures, permit applications, and construction. It also authorizes regional water planning groups to use a drought worse than the drought of record as the baseline for planning purposes.**

### **HB 1699 – Fees on Exported Water**

*Sponsors: King and Flores*

Authorizes the Evergreen Underground Water Conservation District to impose certain fees and sets a cap on the amount of a production and export fee at 20 cents for every thousand gallons of exported water.

### **HB 1971 – Final Rulings by Groundwater Conservation Districts**

*Sponsors: Ashby and Springer*

Requires the board of a Groundwater Conservation District, notwithstanding any other law, to issue a final decision on a permit application no later than the 180th day after the date of receipt of the final proposal for decision from the State Office of Administrative Hearings.

The measure authorizes the deadline to be extended if all parties agree to the extension, and it also provides that a board director may not attend a closed meeting or vote on matters where they previously had to file an affidavit disclosing a conflict of interest.

### **HB 2373 – Streamlining Ratemaking and Facilitating Water System Improvements**

*Sponsors: Harris and Nichols*

Repeals the substantial similarity requirement in the state's water code in order to streamline ratemaking and facilitate regionalization and improvements to investor-owned water systems.

### **HB 2443 – Petitioning a Groundwater Conservation District**

*Sponsors: Harris, Troxclair, and Perry*

Outlines that a person with a real property interest in groundwater must have a method by which they can petition a Groundwater Conservation District to modify or adopt a rule.

### **HB 2460 – Updating Water Availability Models**

*Sponsors: King, Perry, and West*

Amends the Texas Water code to require Texas Commission on Environmental Quality to obtain or develop updated water availability models for the Guadalupe, Lavaca, Nueces, San Antonio, San Jacinto, and Trinity River Basins no later than December 1, 2026.

## HB 2759 – TexMesonet Hydrometeorology Network

*Sponsors: Thompson, Perry, and West*

Directs the executive administrator of the Texas Water Development Board to establish the TexMesonet Hydrometeorology Network in order to monitor hydrometeorological conditions and serve as the statewide repository for hydrometeorological data collection and dissemination.

**The bill requires state agencies and other state entities that collect hydrometeorological data to coordinate in the efforts of the network.**

## SB 28 – Establishing New Accounts Under the Texas Water Development Board

*Sponsor: Perry, et al.*

Revises the Water Code to establish three new accounts to be administered by the Texas Water Development Board (TWDB).

Those accounts are the New Water Supply for Texas Fund, the Texas Water Fund, and the Statewide Water Public Awareness Account. The bill requires TWDB to use the New Water Supply for Texas Fund for projects that develop new sources of water supply, use the Texas Water Fund to transfer money to other TWDB funds and accounts for various projects, ensuring that a portion of that money transferred is used for certain purposes, and use the Statewide Water Public Awareness Account to develop, administer, and implement the Statewide Water Public Awareness Program. Recipients of financial assistance from the New Water Supply for Texas Fund or the Texas Water Fund are required to submit water conservation plans.

## SB 594 – RV Park Water Use Billing

*Sponsors: Zaffirini, LaMantia, Lozano, and Spiller*

Standardizes how water supply corporations (WSCs) and water districts bill recreational vehicle (RV) parks by prohibiting WSCs from assessing administrative fees and charging different rates than similar commercial businesses.

The bill also ensures public drinking water supply systems provide sufficient water capacity, as determined by the Texas Commission on Environmental Quality, to RV parks.

## SB 1088 – Water District Director Qualifications

*Sponsors: Perry, Lambert, Spiller, and Rogers*

Revises the qualification for appointment as a director of the West Central Texas Municipal Water District by expanding the jurisdiction in which such a person must reside and own taxable property from the city that appoints the person to a county in which that city is located.

## SB 1186 – Brine Production Well Permitting

*Sponsors: Hughes, Darby, and Anderson*

Amends the Water Code to authorize the Railroad Commission of Texas (RRC) to issue permits for brine production wells.

The bill repeals a provision designating, for purposes of RRC regulation, an injection well for brine mining as a Class V well under the RRC's underground injection control program, and it retains the Class III well designation for those wells but restricts those wells designated as such to only those wells for the mining of brine extracted by the solution of a subsurface salt formation.

For purposes of provisions relating to brine mining jurisdiction, the bill defines "brine mining" as the production of brine, including naturally occurring brine and brine extracted by the solution of a subsurface

salt formation, for the purpose of extracting from a subsurface formation elements, salts, or other useful substances, not including the following:

- Oil, gas, or any product of oil or gas as defined by provisions relating to the conservation of oil and gas; or
- Fluid oil and gas waste, as defined by provisions relating to the treatment and recycling for beneficial use of fluid oil and gas waste.

The measure designates a Class V brine injection well as a Class V well under the RRC's underground injection control program and defines "Class V brine injection well" as a well that injects spent, naturally occurring brine produced by a brine mining operation into the same formation from which it was withdrawn after extraction of elements, salts, or other useful substances, including halogens or halogen salts.

If rules or regulations adopted to govern Class V brine injection wells under the federal Safe Drinking Water Act or another federal statute allow the state to seek primary enforcement authority under the underground injection control program, the measure requires the RRC to seek primacy to administer and enforce the program for Class V brine injection wells in Texas.

Finally, the bill prohibits a person, on delegation to the RRC of primary enforcement authority in Texas over Class V brine injection wells, from beginning to drill a Class V brine injection well unless that person has a valid permit for the well issued by the RRC.

### SB 1305 – Central Heights Water System Ownership Rights

*Sponsors: Nichols and Clardy*

Transfers of the ownership rights of the City of Nacogdoches in the Central Heights Water System to the Angelina and Neches River Authority.

### SB 1991 – North Harris County Regional Water Authority Disbursements

*Sponsors: Bettencourt and Oliverson*

Requires the board of directors of the North Harris County Regional Water Authority to determine an efficient and effective means of authorizing disbursements of the authority, including by electronic means, and it further requires that a disbursement of the authority be authorized, rather than signed, by at least two directors.

### SB 2592 – Lavaca-Navidad River Authority Sunset Review

*Sponsor: Paxton, et al.*

Sets the next review of the Lavaca-Navidad River Authority (LNRA) under the Texas Sunset Act to be conducted during the 2034-2035 review cycle.

### SJR 75 – Texas Water Fund Constitutional Amendment

*Sponsor: Perry, et al.*

Proposes a constitutional amendment creating the Texas Water Fund to assist in financing water projects in this state.

## **Land Management**

### **HB 162 – Prescribed Burn Plan Provisions**

*Sponsors: Murr, Kitzman, and Zaffirini*

Ensures that if a prescribed burn plan lists a certified and insured prescribed burn manager as the burn boss, then that person must be present on site during the prescribed burn.

### **SB 2583 – Eminent Domain Allowance**

*Sponsors: Creighton and Cain*

Repeals a provision in the Crosby Municipal Utility District's creation legislation restricting the district's power of eminent domain to land located within its boundaries and thus make it consistent with the general law for municipal utility districts, which allows for the use of eminent domain outside a district's boundaries for the purpose of constructing water and sewer transmission lines.

### **SJR 74 – Centennial Parks Conservation Fund Constitutional Amendment**

*Sponsor: Parker, et al.*

Proposes a constitutional amendment providing for the creation of the Centennial Parks Conservation Fund to be used only for the creation and improvement of state parks.

## **Reorganization & Coordination**

### **HB 2489 – Texas Geographic Information Office**

*Sponsors: Kacal and Kolkhorst*

Renames the Texas Natural Resources Information System as the Texas Geographic Information Office and clarifies the duties of certain officers.

### **HB 3507 – Conservation and Reclamation District Sealed Bids**

*Sponsors: Holland and Nichols*

Requires the governing board of a Conservation and Reclamation District, for contracts over \$150,000, to advertise the letting of the contract including the general conditions, time, and place of opening of sealed bids.

The board is further required, for contracts over \$25,000 but not more than \$150,000, to solicit written competitive bids on uniform written specifications from at least three bidders.

## **Solid Waste**

### **HB 3060 – Recycling Goals and Program Requirements**

*Sponsors: Thompson and Hancock*

Requires the Texas Commission on Environmental Quality (TCEQ) or a political subdivision of the state that establishes goals or requirements for recycling or the use of recycled material to base those goals or requirements on the definitions and principles established by provisions relating to waste reduction programs and disposal fees.

The requirement expressly does not apply to a program described by the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act or the television equipment recycling program.

The measure also, in a provision prohibiting the TCEQ from considering post-use polymers or recoverable feedstock to be solid waste if they are converted using pyrolysis or gasification into certain valuable items,



replaces as such an item a valuable raw product with a valuable raw material and expands the types of conversion processes to include solvolysis and depolymerization.

With regard to a facility that reuses or converts recyclable materials through pyrolysis or gasification that is not subject to regulation as a solid waste facility, the bill expands the reuse and conversion processes to include solvolysis and depolymerization and replaces the facility's primary function from the conversion of materials that have a resale value greater than the cost of converting the materials for subsequent beneficial use to the conversion of materials into products for subsequent beneficial use.

The measure revises the definition of “recyclable material” applicable to provisions relating to waste reduction programs and disposal fees under the Solid Waste Disposal Act such that it expands the waste stream from which applicable material must be recovered or diverted from the solid waste stream to any waste stream, includes as recyclable material applicable material that can be recovered or diverted from the waste stream, and replacing as such an item a valuable raw product with a valuable raw material and expanding the conversion processes to include solvolysis and depolymerization.

## SB 224 – Catalytic Converter Penalties

*Sponsor: Alvarado, et al.*

Creates a new state jail felony offense for the unauthorized possession of a catalytic converter and increases the penalty to a third-degree felony under certain circumstances.

The bill makes criminal mischief and theft a felony offense under certain conditions involving a catalytic converter, and it makes both the state jail felony criminal mischief offense relating to a catalytic converter and the new state jail felony offense for unauthorized possession of a catalytic converter subject to a penalty enhancement if the offense was committed or conspired to be committed while engaging in organized criminal activity.

The measure requires the Department of Public Safety to include in its metal recycling entity registration database a description of the extent to which the entity engages in transactions involving catalytic converters. It also establishes regulatory provisions relating to certain transactions involving catalytic converters removed from motor vehicles, including creating a new misdemeanor offense and administrative penalty.

# U.S. VIRGIN ISLANDS

So far this year, the U.S. Virgin Islands has passed a single E&E bill. We continue to monitor their continuing legislative session for relevant measures.

## Environmental Legislation

### Coastal Zone Management

#### SB 35-0072 – Major Coastal Zone Management Permit Approval

*Sponsor: Francis, Jr.*

Ratifies the Governor’s approval of Major Coastal Zone Management Permit No. CZT-03-20 (L&W) issued to SVB 155 SPRING LLC, D/B/A Independent Boatyard and Marina.



## Notable Legislation

**HB 2386/SB 1464** creates the Virginia Power Innovation Fund with funding to be used solely for the purposes of research and development of innovative energy technologies, including nuclear, hydrogen, carbon capture and utilization, and energy storage.

**HB 2026/SB 1231** removes the renewable energy requirement for each Phase I and Phase II Utility to retire all biomass-fired electric generating units that do not co-fire with coal by December 31, 2028.

## Energy Legislation

### Carbon Capture & Storage

**HB 1781/SB 1116 – Southwest Virginia Energy Research and Development Authority Provisions**

*Sponsors: O'Quinn; Hackworth, et al.*

Provides for the powers and duties of the Southwest Virginia Energy Research and Development Authority.

Specifically, the bill gives the authority the ability to accomplish the following:

- Support energy development projects, including pump storage hydropower, energy storage, hydrogen production and uses, carbon capture and storage, geothermal energy, and advanced wind and solar energy;
- Promote energy development projects on closed power plant sites, brownfield sites, former coal mine sites, reclaimed coal mine sites, abandoned mine sites lands, and lands adjacent thereto;
- Promote energy workforce development and energy supply chain development;
- Identify and work with, through mutually agreed collaborations, the Commonwealth's research and development partners, in advancing efforts related to energy development in Southwest Virginia; and
- Promote the capture and beneficial use of coal mine methane from active, inactive, and abandoned coal mines as a low-carbon intensity feedstock for manufacturing and energy generation projects located in Southwest Virginia.

The bill defines "energy development project" as any activity that generates, produces, or stores energy, any energy efficiency system, and any supporting ancillary activities located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities and research, development, commercialization, and deployment activities designated by the authority to the nonprofit collaborative. It also defines "nonprofit collaborative" as a multi-site nonprofit innovative energy technology testbed established as a collaborative effort of the Department of Energy, the authority, and its business partners to support the authority's purpose through energy technology research, development, commercialization, and deployment.

## **HB 2386/SB 1464 – Virginia Power Innovation Program and Fund**

*Sponsors: O'Quinn, Walker, Wiley, and Williams; Vogel*

Creates the Virginia Power Innovation Fund with funding to be used solely for the purposes of research and development of innovative energy technologies, including nuclear, hydrogen, carbon capture and utilization, and energy storage.

The bill also creates the Virginia Power Innovation Program to use moneys from the fund to establish a Virginia nuclear innovation hub and award competitive grants to support energy innovation.

### **Efficiency & Weatherization**

#### **HB 1634/SB 1187 – Resilience in Comprehensive Plans**

*Sponsors: Bulova, Simonds, and Kory; Lewis*

Encourages localities to consider strategies to address resilience in their comprehensive plans.

As used in the law, "resilience" means the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

#### **SB 1323 – Annual Energy Efficiency Savings Targets**

*Sponsors: McClellan, Hashmi, and Boysko*

Requires the State Corporation Commission to establish for Dominion Energy Virginia annual energy efficiency savings targets for customers who are low-income, elderly, disabled, or veterans of military service.

The bill requires the commission, in establishing such targets, to seek to optimize energy efficiency and the health and safety benefits of utility energy efficiency programs. It also directs Dominion Energy Virginia to make best efforts to coordinate such energy efficiency programs with any health and safety upgrades provided through energy efficiency programs authorized by provisions of the Code of Virginia, when reasonably feasible to do so and at the utility's sole discretion. The bill has an expiration date of January 1, 2031.

### **Emergency Management & Homeland Security**

#### **HB 2451 – Electric Vehicle Fire Training**

*Sponsor: O'Quinn, et al.*

Directs the executive director of the Department of Fire Programs to develop a training program on the risks of fires in electric vehicles and how to safely and effectively manage such fires to be completed by all firefighters, including volunteer firefighters, and requires the executive director to make such training program available by July 1, 2024.

### **Fossil Energy**

#### **HB 1643/SB 1121 – Coal Mine Methane Capture**

*Sponsors: Kilgore; Hackworth, et al.*

States that it is the policy of the Commonwealth to encourage the capture and beneficial use of coal mine methane.

The bill directs the Department of Energy to evaluate policy options to encourage the capture and beneficial use of coal mine methane and submit a report of its findings by November 15, 2023.

## HB 2178 – Green and Alternative Energy Job Creation Tax Credit

*Sponsor: Morefield*

Adds methane extracted in Planning District 2 to the list of alternative sources of energy production that qualify an industry as a creator of green jobs for purposes of the Green Job Creation Tax Credit, which is renamed the Green and Alternative Energy Job Creation Tax Credit by the bill.

## HB 2238/SB 1134 – Precision Plastic Manufacturing Grant Fund

*Sponsors: Cherry and Coyner; Ruff, et al.*

Establishes the Precision Plastic Manufacturing Grant Fund to provide up to \$56 million in grants between July 1, 2027, and July 1, 2035, to a qualified company that engages in the manufacture and distribution of precision plastic products in an eligible county and that between June 1, 2022, and December 31, 2035, is expected to make a capital investment of at least \$1 billion and create at least 1,761 new full-time jobs related to or supportive of its business.

## HB 2334 – Natural Gas and Oil Sales and Use Tax Exemptions

*Sponsor: Morefield*

Extends from July 1, 2022, to July 1, 2024, the sunset date of the sales and use tax exemption for materials and equipment used in the drilling, extraction, or processing of natural gas or oil and the reclamation of a well area.

## SB 1050 – Coal Ash Landfill Permitting Prohibition

*Sponsor: McPike*

Prohibits the Department of Environmental Quality from approving an application for a new coal ash landfill permit if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, unless the owner or operator of the coal ash landfill has offered to provide, at its expense, municipal water supply service for such residential area and any requested service connections for residential properties in existence at the time such permit application is filed.

The legislation requires any such owner or operator of a coal ash landfill offering to provide such municipal water supply service or requested service connections to make such offer in writing to any resident located within one mile of the facility boundary and in coordination with the municipal water supply service authority in which the coal ash landfill will be located.

## SB 1298 – Liquefied Petroleum Gas Refills in an Emergency

*Sponsor: Deeds*

Provides that when a qualifying emergency is in effect, a residential customer who can demonstrate that he has less than a 24-hour supply of petroleum gas in his liquefied petroleum gas container must make a good faith effort to procure delivery of liquefied petroleum gas from the owner of the container.

If the owner is unable to fulfill the customer's good faith request within 24 hours, the bill allows the customer to have an emergency supplier fill, refill, or otherwise deliver liquefied petroleum gas into the customer's container.

## SJR 258 – Waste Coal Piles Study

*Sponsor: Hackworth*

Requests the Department of Energy to study the economic and environmental impacts of eliminating waste coal piles in Southwest Virginia.

## **Nuclear Energy**

### **HB 1779 – Nuclear Education Grant Fund and Program**

*Sponsor: O’Quinn, et al.*

Establishes the Nuclear Education Grant Fund and Program, to be administered by the State Council of Higher Education for Virginia, for the purpose of awarding grants on a competitive basis to any public institution of higher education or private institution of higher education in the Commonwealth that seeks to establish or expand a nuclear education program, defined in the bill as an instructional program that leads to a degree or credential that specifically supports the nuclear power industry, including nuclear engineering and nuclear welding.

The bill permits the council to establish such rules, policies, and procedures as it deems necessary for the administration of the program, including rules, policies, and procedures for program applications and grant awards.

### **HB 2386/SB 1464 – Virginia Power Innovation Program and Fund**

*Sponsors: O’Quinn, Walker, Wiley, and Williams; Vogel*

Creates the Virginia Power Innovation Fund with funding to be used solely for the purposes of research and development of innovative energy technologies, including nuclear, hydrogen, carbon capture and utilization, and energy storage.

The bill also creates the Virginia Power Innovation Program to use moneys from the fund to establish a Virginia nuclear innovation hub and award competitive grants to support energy innovation.

## **Renewable Energy**

### **HB 1944/SB 1390 – Solar Projects Sunset Extension**

*Sponsors: Hodges and Lopez; Lewis*

Extends to July 1, 2026, the sunset date for various local land use approvals for solar photovoltaic projects that were valid and outstanding as of July 1, 2023.

### **HB 2026/SB 1231 – Renewable Energy Requirements**

*Sponsors: O’Quinn and LaRock; Lewis*

Removes the renewable energy requirement for each Phase I and Phase II Utility to retire all biomass-fired electric generating units that do not co-fire with coal by December 31, 2028.

The bill provides that biomass-fired facilities may qualify as renewable energy standard eligible sources, provided that they are in operation as of January 1, 2023, and supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected and are fueled by forest-product manufacturing materials harvested in accordance with best management practices or are owned by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by forest-product manufacturing residuals, biowastes, or biomass harvested in accordance with best management practices.

The measure directs the Department of Forestry to convene an advisory panel to examine the use of forest-related materials, agricultural-related materials, and solid woody waste materials for biomass-fired electric generating units in the Commonwealth and to submit a report of the advisory panel's findings and any recommendations to the House Committee on Commerce and Energy and the Senate Committee on Commerce and Labor no later than December 1, 2024.

The bill further directs the Department of Forestry to develop by December 1, 2023, best management practices for the sustainable harvesting of biomass for biomass-fired electric generating units that are subject to the provisions of the bill. The best management practices must include a life-cycle carbon analysis that includes all carbon emissions, including supply chain emissions, forgone sequestration, and the emissions from burning biomass resources for electricity generation developed in coordination with the Department of Environmental Quality and other stakeholders.

#### **HB 2235/SB 1222 – Resale Disclosure Act**

*Sponsors: Wampler; Mason*

Establishes the Resale Disclosure Act, which sets out disclosure requirements and authorized fees relating to contracts for the resale of property located within common interest communities and provides for the issuance of resale certificates or financial updates.

One such disclosure required by the bill is a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or **limited element**.

#### **HB 2305 – Competitive Procurement and Solicitation Requirements for Solar Facilities**

*Sponsor: Weibert*

Provides that in any petition by a Phase I or Phase II Utility for a certificate of public convenience and necessity to construct and operate an electrical generating facility that generates electric energy derived from sunlight, such utility must demonstrate that the proposed facility was subject to **competitive procurement or solicitation**.

#### **HB 2386/SB 1464 – Virginia Power Innovation Program and Fund**

*Sponsors: O'Quinn, Walker, Wiley, and Williams; Vogel*

Creates the Virginia Power Innovation Fund with funding to be used solely for the purposes of research and development of innovative energy technologies, including nuclear, hydrogen, carbon capture and **utilization, and energy storage**.

The bill also creates the Virginia Power Innovation Program to use moneys from the fund to establish a **Virginia nuclear innovation hub and award competitive grants to support energy innovation**.

#### **HB 2444/SB 1441 – Offshore Wind Cost Recovery**

*Sponsors: Bloxom; Locke*

Requires the State Corporation Commission, in conducting its review of requests for cost recovery by a Phase II Utility for costs associated with generating facilities utilizing energy derived from offshore wind, to give due consideration to the economic development benefits of the project for the Commonwealth, including capital investments and job creation, arising from project construction and operation and the manufacture of wind turbine generator components and subcomponents.

The bill also accelerates the timeline from 2034 to 2032 for public utilities to construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth.

#### **SB 1477 – Offshore Wind Affiliate Provisions**

*Sponsor: Lewis*

Authorizes Dominion Energy Virginia, in connection with certain offshore wind projects, to establish an offshore wind affiliate for the purpose of securing a noncontrolling equity financing partner for the project.

Under the bill, such offshore wind affiliate is authorized to operate as a public utility in association with the utility. The bill requires the State Corporation Commission, in acting upon any request for associated cost recovery, to utilize the capital structure and cost of capital of the utility and to disregard the capital structure and cost of capital of any noncontrolling entity's interest in the offshore wind affiliate. If any ownership interest in the offshore wind affiliate is transferred to such a noncontrolling entity, the bill requires the commission to ensure, in granting any approval for the transfer or for cost recovery, that any gain on the utility's basis is credited to the utility's customers through a rate adjustment clause credit mechanism.

Finally, the measure provides that such an affiliate is considered an electric supplier for the purposes of tax provisions requiring certain electric suppliers to pay a minimum tax rather than the corporate income tax for any year their minimum tax liability is greater than their corporate income tax liability.

## **Utilities**

### **HB 1604/SB 1321 – Base Rate Adjustments**

*Sponsors: Ware, et al.; McClellan, Deeds, and Petersen*

Provides, that in any proceeding to establish base rates for Appalachian Electric Power or Dominion Energy Virginia conducted by the State Corporation Commission, if the commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce revenues in excess of the utility's authorized rate of return or below the utility's authorized rate of return, then the commission is required to order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates are just and reasonable and provide the utility an opportunity to recover its costs of providing services over the rate period and earn a fair rate of return.

### **HB 1770/SB 1265 – Virginia Electric Utility Regulation Act Modifications**

*Sponsors: Kilgore; Saslaw*

Authorizes Dominion Energy Virginia, on or before July 1, 2024, to petition the State Corporation Commission for a financing order for deferred fuel costs.

The bill sets forth specific transaction terms and other provisions related to the financing order. Before granting a financing order, the commission is required to find that the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable and the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order.

The measure also requires the financing order to include, among other things:

- The amount of deferred fuel costs to be financed using deferred fuel cost bonds;
- A requirement that deferred fuel cost charges authorized under a financing order are non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for certain exempt customers;
- A formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges; and
- A method of tracing funds collected as deferred fuel cost charges.



The bill mandates the utility to permit certain retail customers to opt out of financing the customer's pro rata obligation for the deferred fuel cost charges through deferred fuel cost bonds. Under the law, the financing order is irrevocable.

The act creates the deferred fuel cost charge and provides that the revenues generated by this charge, known as deferred fuel cost property, are a property right that can be transferred and pledged as security for the deferred fuel cost bonds. It also establishes the procedures for creating, perfecting, and enforcing the security interest in deferred fuel cost property.

The measure includes a state non-impairment obligation. Under the bill, if the deferred fuel cost bonds are issued, the commonwealth and its agencies, including the commission, agree not to take any action that would limit or alter the deferred fuel cost charges until the deferred fuel cost bonds have been paid and performed in full.

The act also makes various changes to procedures under which the commission reviews the earnings and sets the rates of investor-owned incumbent electric utilities. It provides that, in lieu of the triennial review proceedings required under current law, Dominion Energy Virginia, beginning in 2023, will be subject to biennial reviews of their rates, terms, and conditions for generation, distribution, and transmission services.

The bill requires that if, during a biennial review filed on or before December 31, 2023, the commission determines that the utility has earned more than 70 basis points above its fair combined rate of return on its generation and distribution services, the commission will direct that 85 percent of the amount of such overearnings be credited to customers' bills. For a biennial review filed after December 31, 2023, the bill requires that if the commission determines that the utility has earned above its fair combined rate of return on its generation and distribution services, the commission will direct that 85 percent of the amount of such overearnings be credited to customers' bills and that all of any such overearnings that were more than 150 basis points above the utility's fair combined rate of return on its generation and distribution services be credited to customers' bills.

The commission is further required, in determining a fair rate of return on common equity for an investor-owned electric utility in any biennial review initiated prior to December 31, 2023, set such rate at 9.70 percent, which is based on the simple average of the authorized returns for vertically integrated electric utilities by the applicable regulatory commissions in the peer group jurisdictions of Florida, Georgia, Texas, Tennessee, West Virginia, Kentucky, and North Carolina.

The legislation establishes that for any review after December 31, 2023, the commission may use any methodology to determine such return it finds consistent with the public interest. It also provides that the commission may increase or decrease an electric utility's combined rate of return for generation and distribution services by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, operating efficiency of a utility, and load forecasting.

The bill requires the commission, before December 31, 2023, to direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments. It also states that any proceeding to establish base rates for Appalachian Electric Power or Dominion Energy Virginia conducted by the commission, if the commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce revenues in excess of the utility's authorized rate of return or revenues below the utility's authorized rate of return, then the commission is required to order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates are just, reasonable, and



provide the utility an opportunity to recover its costs of providing services over the rate period and earn a fair rate of return.

The measure dictates that Dominion Energy Virginia, in its 2023 biennial review, must combine certain rate adjustment clauses having a combined annual revenue requirement of at least \$350 million with the utility's base rates. It provides that the combination of such rate adjustment clauses is subject to audit by the commission in the utility's 2023 biennial review filing.

The bill also authorizes the commission to, in its discretion, direct the consolidation of any previously implemented rate adjustment clauses in the interest of judicial economy, customer transparency, or other factors the commission determines to be appropriate, and it requires the commission to include in its report to the commission on Electric Utility Regulation and the Governor any information concerning the reliability impacts of generation unit additions and retirement determinations by Appalachian Power and Dominion Energy Virginia, along with the potential impact on the purchase of power from generation assets outside the Virginia jurisdiction used to serve the utility's native load.

Finally, the act requires Dominion Energy Virginia, through December 31, 2024, to undertake reasonable efforts to maintain, subject to audit by the commission, its common equity capitalization to total capitalization ratio at a level equal to 52.10 percent.

### **HB 1776/SB 1420 – Business Park Electric Infrastructure Program Amendments**

*Sponsors: O'Quinn; Pillion*

Makes permanent and amends certain provisions of the state code related to the business park electric infrastructure program conducted by the Virginia Economic Development Partnership.

The bill requires that the program be conducted in the service territory or transmission zone of each Phase I and Phase II Utility and permits costs incurred by the utility in installing the business park electric infrastructure to be recovered pursuant to a rate adjustment clause approved by the State Corporation Commission. It also requires a utility to obtain a certificate from the Commission prior to constructing business park electric infrastructure and requires the Commission to institute a rulemaking proceeding by September 1, 2023, to establish requirements for the program.

### **HB 1777/SB 1075 – Deferred Fuel Costs Process**

*Sponsors: O'Quinn and Williams; Ruff*

Authorizes Appalachian Power to petition the State Corporation Commission for a financing order for deferred fuel costs.

The bill sets forth specific transaction terms and other provisions related to the financing order. Before granting a financing order, the commission is required to find that the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable and the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order.

The measure requires the financing order to include, among other things:

- The amount of deferred fuel costs to be financed using deferred fuel cost bonds;
- A requirement that deferred fuel cost charges authorized under a financing order are non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for certain exempt customers;

- A formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges; and
- A method of tracing funds collected as deferred fuel cost charges.

The legislation directs the utility to permit certain retail customers to opt out of financing the customer's pro rata obligation for the deferred fuel cost charges through deferred fuel cost bonds. Under the bill, the financing order is irrevocable, and it creates the deferred fuel cost charge and provides that the revenues generated by this charge, known as deferred fuel cost property, are a property right that can be transferred and pledged as security for the deferred fuel cost bonds.

The bill also establishes the procedures for creating, perfecting, and enforcing the security interest in deferred fuel cost property, and it includes a state non-impairment obligation. Under the bill, if the deferred fuel cost bonds are issued, the Commonwealth and its agencies, including the commission, agree not to take any action that would limit or alter the deferred fuel cost charges until the deferred fuel cost bonds have been paid and performed in full.

**The measure makes various changes to procedures under which the commission reviews the earnings and sets the rates of Appalachian Power. It provides that, in lieu of the triennial review proceedings required under current law, Appalachian Power will be subject to biennial reviews of their rates, terms, and conditions for generation and distribution services, with the first review commencing on March 31, 2024. The act also requires the commission, in each biennial review, to conduct a proceeding to review all rates, terms, and conditions for generation and distribution services, with such proceeding utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. The bill provides that in each biennial review proceeding, the commission will set the fair rate of return on common equity applicable to the generation and distribution services of the utility for the two such services combined and for certain approved rate adjustment clauses.**

The legislation provides that the commission may use any methodology it finds consistent with the public interest to determine Appalachian Power's fair rate of return on common equity. Additionally, the bill provides that the commission may increase or decrease the combined rate of return for generation and distribution services by up to 50 basis points based on the reliability, generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the commission to be appropriate for such purposes.

The commission is required, before December 31, 2023, to direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments. The bill provides that if the commission determines in its sole discretion that the utility's existing rates for generation and distribution services will, on a going-forward basis, either produce revenues in excess of the utility's authorized rate of return or revenues below the utility's authorized rate of return, then the commission is required to order any reductions or increases, as applicable and necessary, to such rates for generation and distribution services that it deems appropriate to ensure the resulting rates for generation and distribution services are just, reasonable, and provide the utility an opportunity to recover its costs.

The bill provides that, if in any biennial review, the commission finds that, during the test period under review, the utility has earned more than 100 basis points above the authorized fair combined rate of return on its generation or distribution services, the commission will direct that 100 percent of the amount of such earnings that were more than 100 basis points above such fair combined rate of return be credited to customers' bills. It also establishes that the commission is authorized to determine during any biennial

review the reasonableness or prudence of any cost subject to the rate review incurred or projected to be incurred by the utility.

The legislation requires the commission to authorize deferred recovery for reasonable actual costs associated with severe weather events and actual costs associated with natural disasters, not currently in rates, and provides that the commission must allow the utility to amortize and recover such deferred costs over future periods as determined by the commission.

Finally, the act removes the requirement for Appalachian Power to file an integrated resource plan with the commission.

### HB 2126/SB 1178 – Stormwater Management and Gravel Access Roads

*Sponsors: Wilt; Lewis*

Directs the Department of Environmental Quality to include specifications regarding certain activities for stormwater management and erosion and sediment control related to the installation of permanent gravel access roads by an electric utility in the next publication of the Department's Virginia Stormwater Management Handbook.

The bill permits any electric utility that complies with such specifications to be deemed to satisfy the water quantity technical criteria in the Stormwater Management Act. The bill further allows, until the effective date of the next publication of the handbook, any new permanent gravel access road associated with the construction and maintenance of electric transmission lines by an electric utility to be deemed to have satisfied the required water quantity technical criteria if certain requirements are met.

### HB 2132/SB 1145 – Underground Utility Damage Prevention Act Amendments

*Sponsors: Wilt; McPike*

Makes various changes to the Underground Utility Damage Prevention Act.

Specifically, the bill:

- Requires excavators to review updates in the 811 positive response system and conduct additional safety verifications before digging;
- Allows an excavator to schedule a locate request 12 days in advance;
- Creates a criminal penalty for any person who knowingly and intentionally excavates after being notified by a representative of the Commission of a determination that such excavation constitutes an immediate threat to safety or property and such representative requests that excavation cease;
- Increases from \$2,500 to \$10,000 the maximum civil penalty for violations of the Act; and
- Updates notification requirements.

### HB 2275/SB 1166 – Commission on Electric Utility Regulation Membership

*Sponsors: Kilgore; Surovell, et al.*

Increases from 10 to 14 the membership of the Commission on Electric Utility Regulation by adding three nonlegislative citizen members with expertise in ratepayer advocacy and the Attorney General or his designee from the Division of Consumer Counsel as an ex officio member.

The measure requires the commission to annually elect a chairman and vice-chairman, meet twice annually, and receive an annual report from the State Corporation Commission by November 1 regarding the implementation of the Virginia Electric Utility Regulation Act and newly appointed members of the

commission are required to receive an orientation on electric utility regulation from the State Corporation Commission annually.

The commission is authorized to employ an executive director and such other persons as it deems necessary and to employ experts who have knowledge of the issues before it. It also extends the expiration of the commission from July 1, 2024, to July 1, 2029.

Finally, the bill requires the commission to monitor applications by the Commonwealth for grants and awards for energy projects from the federal government, consider legislation referred to it during any session of the General Assembly or other requests by members of the General Assembly, and conduct studies and gather information and data in order to accomplish its purposes.

### **HB 2482/SB 1541 – CPCN Final Order Timeline**

*Sponsors: Fariss and Byron; Lewis*

Directs the State Corporation Commission to issue its final order for certificates of public convenience and necessity regarding certain projects no later than 270 days after the filing date by a utility.

For such projects filed by a utility prior to January 1, 2023, the bill requires the State Corporation Commission to issue its final order for certificates of public convenience and necessity within 90 days of the bill's effective date.

## **Environmental Legislation**

### **Coastal Zone Management**

#### **HB 1832/SB 1345 – Barge and Rail Usage Tax Credit Replacement**

*Sponsors: Wyatt, Fowler, and Wiley; Barker*

Creates grant programs to replace the barge and rail usage tax credit and the Virginia port volume increase tax credit when those credits expire on January 1, 2025.

The bill also creates a new Port of Virginia Economic Development Grant Program consisting of two component programs: the Economic and Infrastructure Development Grant Program and the International Trade Facility Grant Program.

#### **HB 2393 – Coastal Resilience Policies Collaboration**

*Sponsor: Hodges*

Authorizes the Secretary of Natural and Historic Resources and all relevant agencies, when setting coastal resilience policies, to seek input and consultation from the Commonwealth's research university collaborative, including the Virginia Coastal Policy Center, Virginia Sea Grant, Virginia Cooperative Extension, and Institute for Coastal Adaptation and Resilience.

The bill permits the Secretary and all relevant agencies to utilize such research university collaborative's expertise, research, and data analysis for the implementation of water management techniques and coastal resilience strategies.

#### **SB 1160 – Public Notice Requirements for Permitting Related to Tidal Waters**

*Sponsors: Stuart and Reeves*

Requires notices to the public for certain permit hearings relating to fisheries and habitat of the tidal waters to be posted on the Virginia Regulatory Town Hall website and reduces the frequency at which such hearing

notices are required to be published in a newspaper of general circulation from once a week for two weeks to at least once in the seven days prior to such hearing.

The bill allows the Marine Resources Commission or a local wetlands board to email notice of a certain public hearing to any applicant for such permit and any other parties interested in such application and also requires such notice to be posted on the Commission's website at least 14 days prior to such hearing. The bill also requires localities that have adopted a coastal primary sand dune or wetlands zoning ordinance to amend any such ordinance to conform with the provisions of the bill by January 1, 2024.

## **Environmental Health & Justice**

### **HB 1438 – Oyster Shell Recycling Funding**

*Sponsor: Anderson*

Adds the recycling of oyster shells to the list of activities eligible to receive funds from the Oyster Replenishment Fund.

The bill also allows the fund to be used for the encouragement of oyster shell donations for oyster replenishment projects.

### **HB 1664/SB 897 – Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program**

*Sponsors: Hodges, Lopez, and Simonds; Stuart*

Establishes the Governor's Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program and authorizes the Governor to award grants to political subdivisions from the Governor's Agriculture and Forestry Industries Development Fund as part of the program.

Such grants, in amounts up to \$250,000, must be awarded as reimbursable grants to support blue catfish processing, flash freezing, and infrastructure projects. The bill directs the Secretary of Agriculture and Forestry to develop certain guidelines as provided in the bill on behalf of the Governor to facilitate the program.

### **HB 1949/SB 899 – Requirements for Oyster-Planting Grounds**

*Sponsors: Bloxom; Stuart*

Removes the requirement that the Marine Resources Commissioner consider certain factors when recording in his office an application for transfer or assignment for an existing lease of oyster-planting grounds.

### **HB 1998 – Prioritizing Native Plant Use**

*Sponsors: Krizek, Bulova, Subramanyam, and Carr*

Directs the Secretaries of Natural and Historic Resources, Agriculture and Forestry, and Administration to coordinate the development of strategic actions for state agencies to take to prioritize the use of native plant species on state properties.

### **HB 2096 – Noxious Weeds Regulation**

*Sponsors: Bulova, Carr, Kory, and Subramanyam*

Removes the current prohibition on the movement, transportation, delivery, shipment, or offering for shipment of any noxious weed into or within the Commonwealth without a permit from the Commissioner of Agriculture and Consumer Services and grants the Board of Agriculture and Consumer Services the authority to adopt regulations governing the conditions under which a permit will be required for such actions.



The bill also adds requirements related to invasive plant species, including directing the Department of Conservation and Recreation to create an invasive plant species list and update it quadrennially. It also directs the Department of Conservation and Recreation to convene the Virginia Invasive Species Working Group to develop industry resources and recommendations to be submitted to the Chairmen of the Senate Committees on Agriculture, Conservation and Natural Resources and Finance and Appropriations and the House Committees on Agriculture, Chesapeake and Natural Resources and Appropriations.

### **SB 1388 – Menhaden Population Study**

*Sponsor: Lewis*

Directs the Virginia Institute of Marine Science to develop plans for studying the ecology, fishery impacts, and economic importance of menhaden populations in the waters of the Commonwealth and to provide a report on its findings to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources and the Secretary of Natural and Historic Resources no later than September 1, 2023.

### **SB 1501 – Civil Penalty Notice Requirements**

*Sponsor: Stuart*

Requires the Department of Environmental Quality, prior to assessing any civil penalty against any person for an alleged violation of a regulation adopted by the State Air Pollution Control Board, the Virginia Waste Management Board, or the State Water Control Board or permit issued by the department, to inform such person in writing of the alleged violation, the potential penalties, and the actions necessary to achieve compliance and remediate the alleged violation.

The department may allow such person 30 days to take such actions and to provide any additional, relevant facts to the department, including facts that demonstrate a good-faith attempt to achieve compliance.

### **SJR 237 – Recognizing the Wildlife Center of Virginia**

*Sponsors: Hanger and Deeds*

Commends the Wildlife Center of Virginia on the occasion of its 40th anniversary.

## **Hazardous Waste**

### **HB 1410/SB 1038 – Covering Certain Cancers with Workers' Compensation**

*Sponsors: Marshall and Kory; McPike and Cosgrove*

Expands the workers' compensation presumption of compensability for certain cancers causing the death or disability of certain employees who have completed five years of service in their position to include arson investigators or bomb investigators employed by the Department of State Police and members of the State Police Officers' Retirement System who collect, analyze, or handle hazardous materials, infectious biological substances and radiological agents, fentanyl, or methamphetamine.

## **Inland Water Quality & Management**

### **HB 1485/SB 1129 – Chesapeake Bay Watershed Implementation Plan Modifications**

*Sponsors: Weibert, McGuire, and Fowler; Hanger*

Changes the contingency for the effective date of the Chesapeake Bay Watershed Implementation Plan to allow consideration of a combination of point or nonpoint source pollution reduction commitments other than agricultural best management conservation practices when determining whether the Commonwealth's commitments in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan have been satisfied.

The bill advances from July 1, 2026, to July 1, 2028, the contingency effective date of the Chesapeake Bay Watershed Implementation Plan and requires the Secretary of Natural and Historic Resources and the Secretary of Agriculture and Forestry to convene a stakeholder advisory group to review annual progress and make recommendations toward the implementation of the Commonwealth's agricultural commitments in the Chesapeake Bay TMDL Phase III Watershed Implementation Plan. The group is required to submit its first annual report by July 1, 2024, and the Secretaries of Agriculture and Forestry and Natural and Historic Resources are required to jointly review such report by July 1, 2025.

The measure also requires soil and water conservation districts to report to the Department of Conservation and Recreation recommendations for improving the disbursement of funding and for program efficiencies that would expedite disbursement of funds provided through the Virginia Natural Resources Commitment Fund and prohibits certain regulatory actions from being imposed on agricultural practices prior to July 1, 2028, provided that reasonable progress is being achieved and a detailed plan has been developed for reaching the needed number of voluntary incentivized practices.

### HB 1628 – Wetland and Stream Replacement Fund Uses

*Sponsor: Coyner, et al.*

Permits the Department of Environmental Quality to use the Wetland and Stream Replacement Fund for purposes other than the purchase of mitigation bank credits if the department makes a determination within two years after the collection of moneys for a specific impact that mitigation bank credits for such impact will not be available within three years.

### HB 1804 – Credits and Purchases of Tidal Wetland Mitigation Banks

*Sponsor: Bloxom*

Authorizes certain entities to purchase or use credits from a tidal wetland mitigation bank located in an adjacent river watershed when such bank contains the same plant community type and salinity regime as the impacted wetlands, which is be the preferred form of compensation.

The provisions of the bill apply only to tidal wetland mitigation banks with a polyhaline salinity regime located in certain subbasins when a tidal wetland mitigation bank with the same plant community type and salinity regime as the impacted wetlands is not available in the same river watershed as the impacted wetland.

### HB 1807/SB 1392 – Flood Plain Development Standards

*Sponsors: Bloxom; Lewis*

Directs the Department of Conservation and Recreation, no later than September 30, 2023, and in cooperation with numerous Secretariats and the Special Assistant to the Governor for Coastal Adaptation and Protection, to establish standards for development in a flood plain for all state agencies and departments.

Such standards must require at least compliance with the National Flood Insurance Program and that any development undertaken by an agency or department on state-owned land located in a Special Flood Hazard Area be protected or flood-proofed against flooding and flood damage.

The bill also requires any state agency or department, when developing a facility on state-owned property located in a flood plain, to either adhere to all local flood plain management regulations or receive department approval of compliance with the applicable state standard for development in a flood plain, provided that such standard does not jeopardize a locality's participation in the National Flood Insurance Program. Such compliance must be documented and provided in the form of a permit by the department to the applicant prior to preliminary design approval of a project by the department of General Services.



Finally, the bill allows the Department of Conservation and Recreation to issue a permit if no feasible alternative to developing a facility in the flood plain exists and if one of several other conditions provided in the bill is met.

### **HB 1839/SB 963 – Phased Construction Program Requirements**

*Sponsors: Taylor; Morrissey*

**Directs the South Central Wastewater Authority (SCWWA) to submit a phased construction program to the Department of Environmental Quality by August 1, 2023, which the department must approve by September 1, 2023, or as soon as possible thereafter.**

Such phased upgrade construction program for the SCWWA must be completed as soon as possible on a schedule approved by the Department but no later than January 1, 2030. The bill requires the SCWWA to begin the initial phase of construction by December 31, 2023, or within 150 days of approval by the department of the phased construction program, whichever is later.

### **HB 1848/SB 1376 – Stormwater Management and Erosion and Sediment Control Modifications**

*Sponsors: Wachsmann and Edmunds; Vogel*

**Includes farm buildings, any building or structure used for agritourism activity, and any related impervious surface, including roads, driveways, and parking areas, in the respective definitions of an agreement in lieu of a plan in the stormwater management and erosion and sediment control laws.**

**The bill also requires the State Water Control Board to establish by regulation a procedure by which a registration statement may not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for a small construction activity involving a single-family detached residential structure.**

The measure further requires the SCWWA to comply with certain requirements regarding its progress toward completing the phased construction program, and it directs the department to amend certain water quality improvement agreements and the Virginia Pollutant Discharge Elimination System permit for the SCWWA wastewater treatment facility to conform to the provisions of the bill.

### **HB 1940/SB 999 – Recognizing Out-of-state Licenses and Certificates**

*Sponsors: Runion; Mason*

**Requires the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, upon application by an individual, and without examination, to recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure in the Commonwealth if certain conditions are met.**

### **HB 1941 – Onsite Sewage Disposal Loans**

*Sponsor: Hodges*

**Authorizes the State Water Control Board to provide loans from the Virginia Water Facilities Revolving Fund to a local government for the purpose of correcting onsite sewage disposal problems (small water facility projects) to protect or improve water quality and prevent the pollution of state waters.**

The bill allows loan funding for repairs or upgrades to onsite sewage disposal systems that are owned by eligible businesses, defined in relevant law, where public health or water quality concerns are present and connection to a public sewer system is not feasible because of location or cost.

## HB 2095/SB 1149 – State Water Control Board Requirements

*Sponsors: Bulova and Lopez; Marsden*

Requires the State Water Control Board to recognize service areas for water utilities in the Commonwealth that use the Potomac River as a water supply source as a distinct drought evaluation region.

The bill requires the board to incorporate certain provisions from the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (the Metropolitan Washington Plan) into the existing drought evaluation and response plans that are applicable to the Potomac River drought evaluation region. It also directs the board to adopt regulations that further recognize the localities that include any portion of the service area of a water supply utility in the Commonwealth that uses the Potomac River as a water supply source as a distinct regional planning area.

Finally, the measure dictates such regulations must incorporate certain provisions from the Metropolitan Washington Plan. The bill provides that the incorporation of such provisions must not be construed to limit the authority of the Governor during a declared drought emergency.

## HB 2181/SB 1074 – Regulating Subaqueous Beds

*Sponsors: Morefield; Stuart and Reeves*

Authorizes any person to build, dump, trespass, encroach upon or over, or take or use any materials from subaqueous beds that are the property of the Commonwealth, provided that such activity is conducted in nontidal waters and such person obtains a Virginia Water Protection Permit and complies with all requirements of the Virginia Water Resources and Wetlands Protection Program.

A violation of the provisions of the bill is a Class 1 misdemeanor.

## HB 2189 – PFAS Testing Requirements

*Sponsor: Rasoul, et al.*

Directs the State Water Control Board to adopt regulations that require any industrial user of publicly owned treatment works that receive and clean, repair, refurbish, or process items that the industrial user knows or reasonably should know use per-and polyfluoroalkyl substances (PFAS) chemicals to test waste streams for PFAS prior to and after cleaning, repairing, refurbishing, or processing such items.

The bill requires the results of such tests to be transmitted to the receiving publicly owned treatment works within three days of receipt of the test results by the industrial user of the publicly owned treatment works.

## HB 2284 – Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Membership

*Sponsor: Wiley*

Removes from the membership of the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals a faculty member of a public institution of higher education in the Commonwealth whose principal field of teaching is management or operation of waterworks or wastewater works and adds to the board's membership a local or regional representative of the Department of Health.

## HB 2390/SB 1168 – Virginia Erosion and Stormwater Management Act Regulatory Implementation

*Sponsors: Runion and Bulova; DeSteph and Reeves*

Directs the State Water Control Board to adopt regulations to implement before July 1, 2024, the requirements of amendments to the Virginia Erosion and Stormwater Management Act enacted by the 2016 Session and amended by the 2017 Session and delays from July 1, 2018, to July 1, 2024, the effective date of the amendments made by the 2016 Session and regulations required to be adopted pursuant thereto.

The measure also directs such adopted regulations to include the reduction of regulations through consolidation of duplicative requirements.

### **HB 2401/SB 1468 – Flood Mitigation Funding**

*Sponsors: Morefield; Hackworth*

Provides that funds in the Coal and Gas Road Improvement Fund may be used to construct flood mitigation measures that would reduce or prevent flooding of allowable infrastructure and extends from January 1, 2024, to January 1, 2026, the expiration of the local gas road improvement and Virginia Coalfield Economic Development Authority tax.

### **SB 867 – Removing Wetland Development Requirement**

*Sponsor: Cosgrove*

Eliminates the notarization requirement for a permit issued by a local wetlands board for the use or development of any wetland.

### **SB 959 – Assessment of Nutrient Credits Generated via Stream Restoration Projects**

*Sponsor: Hanger*

Establishes that nutrient credits generated through stream restoration projects that are certified or recertified by the Department of Environmental Quality and located in tributaries outside of the Chesapeake Bay watershed may be calculated using a delivery factor deemed by the Director of the Department of Environmental Quality to be based on the best available scientific and technical information appropriate for the tributaries outside of the Chesapeake Bay watershed.

### **SB 1262 – Rappahannock River Basin Commission Membership**

*Sponsors: McDougle and Hanger*

Updates the legislative membership for the Rappahannock River Basin Commission to reflect changes to state legislative districts following redistricting in 2021, which includes removing two members of the Senate to reflect the changed number of Senatorial Districts eligible for representation on the Commission, thus reducing the total membership from 32 members to 30 members and decreasing a quorum from 11 members to nine members.

The measure has a delayed effective date of January 1, 2024.

### **SJR 243 – Joint Subcommittee on Recurrent Flooding Membership**

*Sponsor: Ebbin*

Increases the membership of the Joint Subcommittee on Recurrent Flooding from 11 to 13 by adding two local elected officials from separate regions of the state representing Virginia's flood-prone communities.

The resolution also replaces an existing member of the Joint Subcommittee who is a local official representing Virginia's flood-prone communities with a local official representing an area impacted by coastal flooding.

## **Land Management**

### **HB 1510 – Urban Green Space Regulatory Flexibility**

*Sponsor: Adams, et al.*

Authorizes localities to establish programs to provide regulatory flexibility to encourage the preservation, restoration, or development of urban green space.

The regulatory flexibility may include a reduction in permit fees or a streamlined process for the approval of permits.

### HB 1834 – Land Preservation Tax Credit Extensions

*Sponsor: Cherry*

Provides that for conveyances made on or after January 1, 2017, the deadlines for filing a complete application for land preservation tax credit must be extended for any number of days exceeding 90 during which the application is being reviewed for verification of conservation value by the Department of Conservation and Recreation, provided that the application is otherwise complete.

### HB 1950 – Virginia Marine Resources Commission Required Review and Updates

*Sponsor: Bloxom*

Directs the Virginia Marine Resources Commission (VMRC) to review and update its "Guidelines for Establishment, Use and Operation of Tidal Wetland Mitigation Banks in Virginia" and its regulations, Wetlands Mitigation-Compensation Banks and Supplemental Guidelines.

The bill directs VMRC to consider provisions relating to the generation of vegetated and unvegetated wetland credits from wetland creation, restoration, conversion, and enhancement activities, as well as invasive species control, and the establishment of open water channels. The measure requires VMRC to form a stakeholder group for the purpose of reviewing and updating the guidelines.

### HB 2151 – Defining Substantial Improvements to State Parks

*Sponsor: Fariss*

Increases from \$500,000 to \$2 million the value of physical improvements and structures in state parks that are considered substantial improvements, as defined in the bill.

**The bill also stipulates that the master planning process may not be considered an impediment to the acquisition of inholdings, adjacent properties to be incorporated into an existing park, or properties acquired for the development of a new park.**

### SB 993 – Virginia Land Conservation Board of Trustees Membership

*Sponsor: Marsden*

Expands from 19 to 20 members the total membership of the Virginia Land Conservation Board of Trustees by adding an additional nonlegislative citizen member and stipulates that the 12 nonlegislative citizen members must include one person from each of the 11 congressional districts and one member of a state-recognized or federally recognized Virginia Indian Tribe.

### SB 1122 – Conservation Easement Grants

*Sponsor: Hanger*

Allows grants made from the Open Space Lands Preservation Trust Fund to be used to aid localities in providing funding for projects approved by the Virginia Outdoors Foundation to persons conveying conservation easements to nonprofit land trusts so long as such easement has a local coholder.

In cases where a grant is used to purchase all or part of the value of a property interest, such property interest is required to be compliant with the Open-Space Land Act or a conservation easement under the Virginia Conservation Easement Act, so long as the holder of such easement is accredited by the Land Trust Accreditation Commission or its designated subsidiary entity. If the Land Trust Accreditation Commission accreditation is not available at the time of the grant application for such holder, the foundation is required to evaluate such holder on a case-by-case basis consistent with its established guidelines.

## SB 1152 – Expediting Wetland Permitting

*Sponsor: Cosgrove*

Requires the Virginia Marine Resources Commission, in conjunction with local wetlands boards and other affected state and federal agencies, to develop administrative procedures to expedite the processing of applications for wetlands permits from agencies of the United States government, including any branch of the Armed Forces of the United States.

## **Solid Waste**

### HB 1661/SB 1064 – Nonrepairable Vehicle Certification Process

*Sponsors: Wiley; Spruill*

Establishes a process whereby an insurance company can obtain a nonrepairable certificate for a vehicle acquired through the claims process without first obtaining a title or salvage certificate for such vehicle, provided that the insurance company is unable to obtain the assigned title or salvage certificate from the insured and has determined the vehicle to be a nonrepairable vehicle, any lien on the vehicle has been satisfied, and the vehicle is being sold to a demolisher, salvage dealer, or scrap metal processor for the purpose of recycling parts, dismantling, demolishing, or recycling for scrap.

### HB 2372/SB 1135 – Catalytic Converter Scrap Provisions

*Sponsors: Wyatt, et al.; McDougle, DeSteph, and Stanley*

Makes it a Class 6 felony for any person to sell, offer for sale, or purchase a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle, except when such sale, offer for sale, or purchase is made to or by a scrap metal purchaser that has adhered to the required compliance provisions.

The bill provides that a judge or jury may make a permissive inference that a person who is in possession of a catalytic converter that has been removed from a motor vehicle is presumed to have criminally obtained such catalytic converter unless the person is an authorized agent or employee acting in the performance of his official duties for a motor vehicle dealer, motor vehicle garage or repair shop, or salvage yard that is licensed or registered by the Commonwealth or a person who possesses vehicle registration documentation indicating that the catalytic converter in the person's possession is the result of a replacement of a catalytic converter from a vehicle registered in that person's name.

### SB 997 – Oyster Shell Waste Diversion Fund

*Sponsors: Mason and McClellan*

Creates the Oyster Shell Waste Diversion Fund for the purpose of diverting oyster shells from landfills and promoting the beneficial reuse of such shells in oyster restoration activities.

The fund must be administered by the Department of Conservation and Recreation, which is authorized to contract with an entity that is exempt from taxation and is engaged in oyster restoration activities to manage fund operations consistent with the purposes of the fund.

# WEST VIRGINIA

## Notable Legislation

**HB 3012** establishes an exemption from the imposition of a severance tax for a period of nine years beginning on July 1, 2023, for severing rare earth elements and critical minerals.

**SB 162** authorizes the Director of the Department of Natural Resources to lease state-owned pore spaces in certain areas for carbon sequestration.

## Energy Legislation

### Carbon Capture & Storage

#### SB 162 – Pore Space Leasing

*Sponsor: Blair, et al.*

Authorizes the Director of the Department of Natural Resources to lease state-owned pore spaces in certain areas for carbon sequestration.

### Critical Minerals & Rare Earth Elements

#### HB 3012 – Rare Earth Elements and Critical Minerals Severance Tax Exemption

*Sponsor: Anderson, et al.*

Establishes an exemption from the imposition of a severance tax for a period of nine years beginning on July 1, 2023, for severing rare earth elements and critical minerals.

### Fossil Energy

#### HB 3110 – Funding Oil and Gas Well Inspection

*Sponsor: Anderson, et al.*

Ensures that the Department of Environmental Protection's Office of Oil and Gas has sufficient money to inspect the oil and gas wells of the state by providing for the apportionment of three fourths of one percent of oil and gas severance taxes to office.

The measure also establishes three tiers of annual oversight fees for certain wells producing more than 10,000 cubic feet of gas per day, and it increases the expedited permit modification fee by \$2,500 over the current level. The one million dollar cap on deposits to the Oil and Gas Operating Permit and Processing Fund is eliminated from collections of fees for expedited permits and expedited permit modifications by the bill.

#### HB 3303 – Office of Coalfield Community Development Director Duties

*Sponsor: Reynolds, et al.*

Revises the duties of the director of the Office of Coalfield Community Development to include coordinating the expenditure of grants issued by the United States Department of Energy and the U.S. Department of Commerce's Economic Development Administration for coalfield economic development or coalfield revitalization projects.



The measure also allows the director to:

- Identify coal assets, including, but not limited to, coal mine operations, coal-fired electric utilities, and coal-based manufacturing or steelmaking facilities, within West Virginia or in states that provide markets for, and consume, West Virginia steam or metallurgical coal and offer assistance and to sustain, protect, and expand their continued operation and reliance on West Virginia coal;
- Develop an educational program and policy materials in support of West Virginia's coal industry, to be incorporated into a program designed to educate the public on the economic and societal benefits provided by the coal industry, including the provision of reliable baseload electric generation by coal-fired power plants; and
- Coordinate a program of recruitment and training of industrial workers in conjunction with the West Virginia Office of Miners' Health Safety and Training and Workforce West Virginia to respond to West Virginia's growing manpower needs generally and coal mining particularly. The state-of-art training facility in Julian (Boone County) will serve as host to the "West Virginia Mine Safety and Training Academy" to attract and train new and experienced miners and other industrial workers.

### HB 3482 – Coal Fired Grid Stabilization and Security Act of 2023

*Sponsor: Howell*

Creates the Coal Fired Grid Stabilization and Security Act of 2023, which aims to encourage the development, transportation and use of electricity generated using West Virginia coal as the energy source for generating electricity by directing the West Virginia Department of Economic Development to identify and designate sites suitable for coal electric generation facilities and by providing for timely consideration and decision concerning applications for permits to construct and operate coal electric generation facilities and by requiring the Air Quality Board to promptly hear and issue decisions on appeals of permit decisions concerning coal electric generation facilities.

### HR 17 – Capture and Use of Coal Mine Methane

*Sponsor: Anderson, et al.*

Urges the West Virginia Geologic and Economic Survey to work with groups to evaluate policy options to encourage the capture and beneficial use of coal mine methane.

### SB 188 – Facilitating Natural Gas Business Activity

*Sponsor: Trump, et al.*

Declares that facilitating the development of business activity directly and indirectly related to natural gas electric generation development, transportation, storage, and use serves the public interest of the citizens of this state by promoting economic development, improving economic opportunities for the citizens of this state, and providing additional opportunities to stabilize the price of electricity while increasing its **reliability and availability**.

The measure provides criteria for the identification of suitable sites for natural gas electric generation projects as follows:

- Geographic locations near producing natural gas wells, or pipelines carrying natural gas produced in the state, capable of supplying and sustaining one or more natural gas electric generation facilities for the economic life of the facilities;
- Geographic locations near existing electric transmission infrastructure capable of transmitting the generated electricity to wholesale markets;

- Geographic locations that fulfill the air quality conditions imposed by the Division of Air Quality of the West Virginia Department of Environmental Protection for one or more natural gas electric generation facilities; and
- Geographic locations that can demonstrate that allowable emission increases from one or more natural gas electric generation facilities, in conjunction with all other applicable emission increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:
  - Any national or West Virginia ambient air quality standard in any air quality control region; or
  - Any applicable maximum allowable increase over the baseline concentration in any area.

Following identification of economically viable sites that may be suitable for natural gas electric generation projects, the Secretary of the Department of Economic Development must identify and designate each site it has determined to be suitable for natural gas electric generation projects as a "designated site" and communicate the designated sites to the West Virginia Department of Environmental Protection's Division of Air Quality and the West Virginia Public Service Commission.

### **SB 609 – Power Plant Decommissioning Approval Process Modifications**

*Sponsor: Smith, et al.*

Modifies the power plant decommissioning approval process such that no existing coal, oil, or natural gas fueled power plant may undertake any decommissioning or deconstructing activities prior to obtaining approval from the Public Energy Authority.

The authority may approve the decommissioning or deconstructing of an existing coal, oil, or natural gas fueled power plant upon the submission of a petition containing, at a minimum, the following information:

- An analysis by an authority approved third party that evaluates the social, environmental, and economic impact at a local and statewide level of such decommissioning and deconstruction; and
- Potential alternatives to decommissioning and deconstruction, including the reconstruction that make use of other technologies, including novel technologies and green technologies as alternative fuel sources.

## **Nuclear Energy**

### **HCR 11 – Facilitating Nuclear Energy Development**

*Sponsor: Hanshaw, et al.*

Urges Marshall University and West Virginia University, including WVU Institute of Technology, to lead an education consortium with the support of the Higher Education Policy Commission that includes both West Virginia and non-West Virginia institutions of higher education along with representatives from private industry for purposes of assisting the Legislature and the State of West Virginia as a whole with the development of policies and programs necessary to facilitate nuclear energy developments in West Virginia.

The resolution further asks that the higher education consortium work throughout the course of the next year to identify and recommend nuclear policies to the legislature that maintains West Virginia's position as America's energy powerhouse and ensures that West Virginia continues to play a leadership role in energy production.

## **Renewable Energy**

### **HB 2640 – Department of Environmental Protection Rulemaking**

*Sponsor: Foster*

Authorizes the Department of Environmental Protection to promulgate various legislative rules.

Specifically, the measures authorizes the department to promulgate a legislative rule relating to:

- Standards of performance for new stationary sources;
- Requirements for operating permits;
- Standards for hazardous air pollutants;
- Control of ozone season nitrogen oxides emissions;
- Quarrying and reclamation;
- The Recycling Assistance Grant Program;
- The Reclamation of Abandoned and Dilapidated Properties Grant Program; and
- Reclamation of solar and wind electricity generation facilities.

### **HB 2814 – Hydrogen Power Task Force**

*Sponsor: Young, et al.*

Establishes the Hydrogen Power Task Force to study hydrogen-fueled energy in the state's economy and energy infrastructure.

Such study includes, without limitation, the following goals:

- A review of regulations and legislation needed to guide the development and achievement of economies of scale for a hydrogen energy ecosystem in the state;
- An examination of how to position the state to take advantage of competitive incentives and programs created by the federal Infrastructure Investment and Jobs Act and the federal Inflation Reduction Act;
- An examination of the sources of potential hydrogen, including, but not limited to, coal, oil, natural gas, hydro, wind, solar, biogas, and nuclear;
- Recommendations for funding and tax preferences for building hydrogen-fueled energy facilities at sites throughout West Virginia;
- Recommendations regarding funding sources for developing hydrogen fueled energy programs and infrastructure; and
- Recommendations for potential end uses of hydrogen-fueled energy.

### **SB 446 – Methanol Fuel Definition**

*Sponsor: Tarr*

Removes methanol and methanol fuel from definition of special fuel under the Motor Fuel Excise Tax.

## **Utilities**

### **HB 2817 – Alternative Fuel Definition and Temporary Electric Charging Locations**

*Sponsor: Cannon, et al.*

Revises the definition of “alternative fuel” to include propane and modifies “alternative fuel vehicle” as a motor vehicle primarily fueled by natural gas, methanol, propane, or electricity.

The measure declares that persons or entities generating electricity for retail sale for alternative fuel vehicles at temporary electric charging locations using movable generators are not public utilities and the Public Service Commission has no jurisdiction over them, provided that the temporary electric charging locations are at:

- Fairs, festivals, and other special events;
- Locations where the electric distribution grid has been adversely effected by emergencies or disasters, natural or otherwise; or
- Locations which facilitate evacuations from such emergencies or disasters, impending or otherwise.

### **HB 2865 – Distressed or Failing Utility Acquisition**

*Sponsor: Westfall*

Clarifies that the Public Service Commission may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility.

### **HB 3308 – Cost Recovery via Consumer Rate Relief Bonds**

*Sponsor: Criss, et al.*

Authorizes the Public Service Commission to consider and issue financing orders to certain utilities to permit the recovery of costs through securitization via consumer rate relief bonds.

### **HB 3473 – Infrastructure Planning**

*Sponsors: Linville and Maynor*

Directs the Commissioner of the Department of Highways, the Director of Environmental Protection, a designee of West Virginia 811, and the Director of the State Historic Preservation Office to create procedures and policies facilitating development of a unified clearinghouse with as much publicly accessible data as is practicable.

Such data should be that which would show if along a proposed route for infrastructural development of any kind, there are any known regulatory concerns for infrastructure, and alternate paths or routes for such project to take. The work group is tasked with making recommendations to the Committee on Technology and Infrastructure no later than January 1, 2024.

### **SB 544 – Power Purchase Agreement Cap**

*Sponsor: Queen*

Increases the power purchase agreement cap from 500 kW to 1,000 kW for commercial customers and 25 kW to 50 kW for residential users.

## **Environmental Legislation**

### **Emergency Management & Homeland Security**

#### **SB 128 – State of Emergency Authority**

*Sponsor: Smith, et al.*

Revises the authority of the Governor and the Legislature to proclaim or declare states of emergency and preparedness.

Specifically, the measure allows the Governor, under a declared state of emergency, to:

- Enforce all laws and rules relating to the provision of emergency services and to assume direct operational control of any or all emergency service entities and personnel in the state;
- Sell, lend, lease, give, or transfer property, to make purchases, deliver materials or perform functions relating to emergency services on terms and conditions he or she prescribes without regard to the limitations of any existing law or being required to account to the State Treasurer for any funds received for the property;
- Procure materials and facilities for emergency services by purchase, condemnation, or seizure pending institution of condemnation proceedings within 30 days from the seizing thereof and to construct, lease, transport, store, maintain, renovate, or distribute the materials and facilities. Compensation for the procured property must be made in the manner provided by the law;
- Obtain the services of necessary personnel required during the emergency or in preparation for the emergency, and to compensate such personnel for their services from the Governor’s Contingent Fund or other funds available to him or her;
- Suspend the provisions of any statute prescribing the procedures for the conduct of state business or the orders, or rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency, provided that nothing in this subdivision may be construed as granting the Governor the power to suspend any provision of this section;
- Use available resources of the state and of its political subdivisions that are reasonably necessary to cope with the emergency or to prepare for the emergency;
- Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, provided that explosives and combustibles do not include firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies;
- Make provision for the availability and use of temporary emergency housing; and
- Perform and exercise other functions, powers and duties that are necessary to promote and secure the safety and protection of the civilian population.

### **Emissions & Pollution**

#### **HB 2640 – Department of Environmental Protection Rulemaking**

*Sponsor: Foster*

Authorizes the Department of Environmental Protection to promulgate various legislative rules.

Specifically, the measure authorizes the department to promulgate a legislative rule relating to:

- Standards of performance for new stationary sources;

- Requirements for operating permits;
- Standards for hazardous air pollutants;
- Control of ozone season nitrogen oxides emissions;
- Quarrying and reclamation;
- The Recycling Assistance Grant Program;
- The Reclamation of Abandoned and Dilapidated Properties Grant Program; and
- Reclamation of solar and wind electricity generation facilities.

## **Environmental Health & Justice**

### **SB 4 – Adopt-a-Trail Provisions**

*Sponsor: Maynard, et al.*

Establishes the Adopt-a-Trail volunteer programs for public land under the Department of Natural Resources jurisdiction.

Volunteer groups in the program may adopt any available trail or trail segment and may choose any one or more of the following activities:

- Spring cleanups;
- Litter collection;
- Accessibility projects;
- Special events;
- Trail maintenance, enhancement, or realignment;
- Public information and assistance; or
- Training.

### **SB 733 – Lifetime Hunting Licenses**

*Sponsor: Woodrum, et al.*

States the Director of Natural Resources may issue various lifetime hunting licenses.

The measure lists the following species as valid for lifetime hunting stamps and licenses:

- Resident hunting, fishing, and trapping licenses;
- Nonresident statewide hunting, fishing, and trapping licenses;
- Nonresident bear hunting license;
- Nonresident trout fishing stamp;
- Nonresident archery deer hunting stamp;
- Nonresident muzzleloading deer hunting stamp;
- Nonresident turkey hunting stamp; and
- Nonresident national forest hunting, fishing, and trapping stamp.



## **Hazardous Waste**

### **HB 2860 – Fire-fighting Foam Disposal Methods**

*Sponsor: Heckert, et al.*

Requires the State Fire Commission to develop a method for the disposal of used aqueous film forming and other class B fire-fighting foams.

## **Inland Water Quality & Management**

### **HB 2955 – Establishing Regional Water, Wastewater, and Stormwater Authorities**

*Sponsors: Riley and Keaton*

Establishes the operation of regional water, wastewater, and stormwater authorities enabling public agencies to cooperate to manage stormwater.

The measure provides that public agencies may enter into contracts, but the Public Service Commission is required to confirm that all required contract-related documentation has been filed.

### **HB 3189 – PFAS Protection Act**

*Sponsor: Riley, et al.*

Establishes the Per- and Polyfluoroalkyl Substances (PFAS) Protection Act, which requires the Department of Environmental Protection (DEP) to identify and address PFAS sources impacting public water systems.

The legislation requires facilities that have recently used PFAS chemicals to report their use to DEP and permits to be updated to require monitoring of PFAS chemicals for facilities that report their use.

The DEP is required to propose rules to adopt water quality criteria for certain PFAS chemicals after they are finalized by the U.S. Environmental Protection Agency.

### **SB 143 – Adopt-a-Stream Requirements**

*Sponsor: Smith, et al.*

Requires Adopt-a-Stream volunteers 17 years of age or younger be accompanied by an adult.

The measure also increases the length of the program adoption from one to three years, and at least one cleaning must take place before signs advertising the program are erected.

### **SB 561 – Drinking Water Treatment Revolving Fund Administration**

*Sponsors: Jeffries and Woelfel*

Modifies the Water Development Authority and Water Development Board as it relates to the administration of the state's Drinking Water Treatment Revolving Fund.

The bill removes a reference of the federal Safe Drinking Water Act from an area of code, and it provides for the state administration of the federal Safe Drinking Water Act.

Finally, the bill transfers state administration of the West Virginia Drinking Water Treatment Revolving Fund from the Department of Health and Human Resources to the Department of Environmental Protection.

### **SB 677 – State Resiliency Officer Responsibilities**

*Sponsors: Swope and Rucker*

Clarifies the roles and responsibilities of the State Resiliency Officer and requires them to submit a new Flood Resiliency Plan by June 30, 2024, and then biannually thereafter.

The measure directs the officer to hire additional staff, and it removes the West Virginia Disaster Recovery Trust Fund from the jurisdiction of the Division of Homeland Security and Emergency Management.

The legislation allows for disbursement of post-disaster recovery assistance, and it requires that 50 percent of disbursements be expended to benefit low-income communities.

The West Virginia Resiliency Trust Fund is established by the bill within the State Resiliency and Flood Protection Act. It requires 50 percent of disbursements be expended to implement nature-based solutions, and it allows for grants to political subdivisions for both Flood Resiliency Plan implementation and local flood prevention and protection studies.

Finally, the measure requires 25 percent of Community Development Block Grant Disaster Recovery Funds received by the state as a result of a flood disaster to be deposited in the Flood Resiliency Trust Fund.

## **Land Management**

### **HB 3215 – Land Development Definitions and Planning**

*Sponsor: Riley*

Modifies the definition of “land development” to clarify it means the alteration or improvement of one or more lots, tracts, or parcels of land.

The measure states that if a governing body has adopted detailed standards for final plats as part of a subdivision and land development ordinance, the planning commission may delegate to its staff the authority to approve preliminary or provisional land development plan or subdivision plat that is consistent with the adopted standards for final plats and the requirements of the adopted subdivision and land development ordinance.

The planning commission may delegate to its staff the authority to determine completeness, phasing, changes, and technical review for major subdivisions or land development applications, if a governing body has adopted detailed process provisions, procedures, or checklists for major subdivisions or land development applications, provided that a staff review does not take longer than would a planning commission review.

Any applicant may request, in writing to the planning commission, that such a delegated review must revert to a planning commission review, in which case the time required for review begins at the date of the request.

### **HB 3560 – Land and Recreational Purposes Definitions**

*Sponsor: Howell*

Expands the definition of "land" and "recreational purposes" to include rock climbing and bouldering activities for purposes of limiting liability of landowners.

### **SB 161 – Department of Natural Resources Reporting Requirements**

*Sponsor: Blair, et al.*

Repeals the requirement that the Department of Natural Resources report items to the Public Land Corporation thus authorizing the department to manage and dispose of property.

### **SB 735 – Rails to Trails Program Jurisdiction**

*Sponsor: Woodrum, et al.*

Revises the division in charge of the state’s Rails to Trails Program from the Division of Tourism and Parks to the Division of Natural Resources.

## **Solid Waste**

### **SB 533 – Recycling Cooperatives Requirements**

*Sponsor: Nelson*

Strikes from the code the requirement that recycling cooperatives be limited to the use of one motor vehicle for the purpose of collection and transportation of recyclable goods.

## ABOUT US

The Southern States Energy Board (SSEB) is a non-profit interstate compact organization created in 1960 and established under Public Laws 87-563 and 92-440. Sixteen southern states and two territories comprise the membership of SSEB: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, and West Virginia. Each jurisdiction is represented by the governor and a legislator from the House and Senate. A governor serves as the chair and legislators serve as vice-chair and treasurer. Ex-officio non-voting Board members include a federal representative appointed by the President of the United States, the Southern Legislative Conference Energy and Environment Committee Chair, and SSEB's executive director, who serves as secretary.

SSEB was created by state law and consented to by Congress with a broad mandate to contribute to the economic and community well-being of the southern region. The Board exercises this mandate through the creation of programs in the fields of energy and environmental policy research, development and implementation, science and technology exploration, and related areas of concern. SSEB serves its members directly by providing timely assistance designed to develop effective energy and environmental policies and programs and represents its members before governmental agencies at all levels.

## OUR GOALS

- Perform essential services that provide direct scientific and technical assistance to state and territorial governments;
- Develop, promote, and recommend policies and programs on energy, environment, and economic development that encourage sustainable growth;
- Provide technical assistance to executive and legislative policy-makers and the private sector in order to achieve synthesis of energy, environment, and economic issues that ensure energy security and supply;
- Facilitate the implementation of energy and environmental policies between federal, state, territory, and local governments and the private sector;
- Sustain business development throughout the region by eliminating barriers to the use of efficient energy and environmental technologies; and
- Support improved energy efficient technologies that contribute to a clean global environment while protecting indigenous natural resources for future generations.





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