



CHESAPEAKE BAY COMMISSION

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2013 General Assembly Session Maryland, Virginia and Pennsylvania

May 10, 2013 - CBC Meeting- Washington D.C

MARYLAND

Chesapeake Bay Related Legislation (all passed, some awaiting signature)

Legislation sponsored by or supported by the CBC MD delegation

HB357 / SB344 (Del.'s Wood, Hubbard, McIntosh, et al, Sen.'s Middleton, Frosh), Potomac River Fisheries Commission – Inspection Tax and Penalty

Increases PRFC's oyster inspection tax from \$1.00 to \$2.00 per bushel. All oyster inspection tax proceeds are to be used solely for planting seed or shell oyster on working bottom, as part of PRFC's Oyster Management Reserve Program. The bills also increase the maximum fine amount for violations of PRFC regulations from \$1,000 to \$3,000. Although the oyster inspection tax provision is scheduled to take effect July 1, 2013, and the maximum fine provision is scheduled to take effect October 1, 2013, the bill may not take effect until similar legislation is enacted by Virginia.

HB708 / SB5457 (McIntosh, et al, Sen.'s Middleton and Frosh), Natural Resources- Nuisance Organisms- Penalties

Establish a separate criminal offense for each nuisance organism imported or possessed in violation of nonnative aquatic organism provisions in the Natural Resources Article and limit fines for violations to a total of \$25,000 for offenses arising out of the same enforcement action. Also, nuisance organism violations are expanded to include violation of regulations. Nonnative species are plants, animals, or microbes that have been transported from one geographic region to an area where they did not live previously. According to Maryland Sea Grant, the Chesapeake Bay watershed has become home to many nonnative species, some innocuous, some beneficial, but others destructive beyond expectation.

HB 561 /SB 748 (Del. Hubbard, et al /Sen. Middleton), Agriculture- Nutrient Management- Limiting Applicability

Several provisions of the Fertilizer Use Act of 2011 prohibits the application of fertilizer containing phosphorus or nitrogen to turf that is within 10-15 feet of "waters of the State" which includes the 100 year floodplain. This bill repeals the references to "waters of the State" in the fertilizer setback provisions of the Fertilizer Use Act of 2011 and clarifies that the provisions apply only to State surface waters, the Chesapeake Bay and its tributaries, ponds, lakes, rivers, streams, public and tax ditches, and specified public drainage systems.

SB 1029 (Sen. Middleton, et al) Maryland Agricultural Certainty Program

Establishes a voluntary Maryland Agricultural Certainty Program to accelerate the implementation of agricultural best management practices to meet State agricultural nitrogen, phosphorus, and sediment reduction goals.

MDA may certify an agricultural operation if, among other things, MDA determines that the operation (1) has a fully implemented soil conservation and water quality plan; (2) has a fully implemented nutrient

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management plan; (3) meets nitrogen, phosphorus, and sediment load reductions associated with The Bay TMDL and any Local TMDL's; and (4) meets State and federal laws, regulations, and permit conditions relating to agricultural sources of nitrogen, phosphorus, or sediment reduction applicable to the operation.

For a ten year period after the date of certification an agricultural operation that is in compliance and certified under the program is not subject to State or local laws or regulations enacted or adopted that relate to the reduction of agricultural sources of nitrogen, phosphorus, or sediment to meet the TMDL, local TMDLs, or other water quality requirements. At the end of the 10-year certification period, a certified operation must comply with all applicable laws, regulations, rules, and permit conditions that went into effect after the operation was initially certified. An agricultural operation that is certified under the program is subject to specified recordkeeping, reporting, and inspection requirements. The program must be self-sustaining and revenue neutral.

The program does not prevent the application or enforcement of any other laws, regulations, or permits, including the federal Clean Water Act and specified State laws relating to water control and abatement, water resources and wetlands, and the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program, among others.. MDA must also establish an oversight committee to (1) monitor and provide oversight on the development and implementation of policies and standards relating to the program; (2) assist in the development of implementing regulations; (3) meet at least once every year to evaluate program performance; (4) and make recommendations for improvements to or termination of the program. Finally, MDA is required to submit a report by December 31, 2014, and each December 31 thereafter, to the Governor and specified legislative committees on program participation and the oversight committee's recommendations.

SB 404 / HB 408- (Sen. Middleton, et al and Del. Conway), Income Tax-Subtraction Modification-Enhanced Agricultural Management Equipment

Expands the existing conservation tillage equipment income tax subtraction modification to include qualified purchases of (1) manure spreading equipment; (2) vertical tillage equipment; (3) global positioning system devices used for management of agricultural nutrient applications; and (4) integrated optical sensing and nutrient application systems. The subtraction modification for qualified purchases of vertical tillage equipment is equal to 50% of eligible costs incurred.

HB 797, Chapter 140- (Delegate McIntosh) Transportation Projects- Transportation Facilities- Water Access

Requires the Department of Transportation and local governments, in developing a construction or improvement project involving a bridge or other transportation facility that is adjacent to or that crosses a waterway, to consider any reasonable and appropriate measures to provide or improve specified water access for specified activities.

Conservation and Stewardship

Senate Bill 27/ House bill 385 (Sen. Astle, Del.'s Robinson, McIntosh et al.), Chesapeake Conservation Corps Program - Funding Extension

Extends the environmental surcharge through fiscal 2020 and makes the existing allocations of Environmental Trust Fund, ETF, funding to the Chesapeake Conservation Corps Program and trust permanent. . The Trust awards grants to community-led environmental education and habitat restoration projects and manages the Chesapeake Conservation Corps Program, which provides service-learning opportunities and green job training for young people through environmental and energy conservation projects.

Environment

Senate Bill 675/House Bill 775 (Sen. Manno), Maryland Pesticide Reporting Workgroup

Establishes the Maryland Pesticide Reporting and Information Workgroup to study and make recommendations regarding the establishment of a pesticide use database. MDA must provide staff for the workgroup. The workgroup must submit its preliminary findings and recommendations to specified legislative committees by December 31, 2013, and its final findings and recommendations to the committees by July 1, 2014.

SB302- (Sen.Glassman), Environment - Water Pollution Control - Reporting

Requires the Department of the Environment to publish annually on its Web site the total amount of sewage overflow into the Chesapeake Bay and its tributaries and the total amount of fines collected by the Department as a result of sewage overflows into the Chesapeake Bay and its tributaries.

House Bill 1440 (Administration), Recycling - Composting Facilities

Alters the definition of “solid waste” and several other definitions, and allows compost and composting facilities to be regulated separately from other solid waste facilities and in a manner that will likely encourage additional composting and reduce barriers to the construction of new facilities. Recognized benefits of composting include diverting waste from landfills, reducing emissions of methane, a greenhouse gas; and providing an inexpensive source of natural fertilizer.

Fisheries Management

Senate Bill 662/House Bill 1253 (Senator Mathias) Natural Resources - Commercial Fishing – Licensing

Modifies fees and other terms of existing annual commercial fishing licenses and establishes new annual commercial fishing authorizations, registrations, permits, surcharges, and associated fees. The bills also repeals the tidal fish license apprenticeship program, and instead requires DNR to accept applications from qualified individuals for specified tidal fishing authorizations and maintain a waiting list in order of the date and time that applications are received. Beginning in fiscal 2014, the Governor is authorized to include in the State budget an appropriation from the general fund to augment the increase in revenues DNR receives as a result of the bills. This legislation is expected to increase DNR special fund revenues by at least \$1.6 million in fiscal 2014 and future fiscal years.

Senate Bill 464, Ch. 57, (Sen Klausmeier) Natural Resources - Aquaculture - Shellfish Nursery Permits

Rapid growth in the State’s aquaculture industry has prompted interest in and demand for shellfish seed nurseries, which supply juvenile shellfish to businesses that then grow the shellfish to market size. This bill establishes a permitting system for shellfish nurseries located on land or in State waters not covered by an aquaculture lease. For shellfish nurseries located on land, DNR may issue a permit only to the owner or legal tenant of the property or a person with the property owner’s permission. For a shellfish nursery located in State waters outside a DNR aquaculture lease area, DNR may issue a permit only to the owner of a wharf or other structure constructed on or about the water and approved by the U.S. Army Corps of Engineers, or to a person with the owner’s permission. A shellfish nursery operation located in State waters and with a permit is not required to obtain a water column or submerged land lease. Shellfish nursery products are not subject to National Shellfish Sanitation Program (NSSP) water quality classifications and restrictions.

House Bill 1505 (Del. Jacobs), Oysters - Power Dredging - Time Period

Increases the maximum number of days, from two to three, per week during which a dredge boat may operate under the power of an auxiliary yawl boat while dredging for oysters. The bill impacts sailboats (e.g., skipjacks), which have small motorboats (auxiliary yawls) that can propel the sailboat as oyster harvesting occurs.

House Bill 96, Ch. 80, (Administration), Natural Resources - Restricted Shellfish Harvest Areas - Water Testing

Repeals a provision that requires MDE to test or inspect waters that have been restricted for shellfish harvesting at least twice monthly or more frequently if requested by the appropriate governing body of any county affected by the restriction.

Senate Bill 592/House Bill 1148 (Sen. Frosh, Del. Luedtke), Natural Resources - Shark Fins - Restriction on Possession or Distribution

Prohibits a person from possessing, selling, offering for sale, trading, or distributing a shark fin in the State. The bills do allow a person to possess a shark fin if (1) the person holds the appropriate State or federal license or permit authorizing the taking or landing of a shark for recreational or commercial purposes; (2) it is taken from a shark that the person has taken or landed; and (3) it is taken in a manner consistent with the person's license. A museum, college, or university may also possess a shark fin if the shark fin is used solely for display or research purposes. The bills do not apply to smooth hounds or spiny dogfish (for which certain fin removal is authorized under federal law) or rays or skates.

Senate Bill 59, Ch 173 (Administration), Natural Resources - Fish and Fisheries

Repeals, clarifies, and modifies provisions of fisheries laws that are inconsistent with State regulations, unnecessary, or obsolete. The bill primarily affects provisions related to the allowable manner, places, and times for catching, and size limits applicable to, certain species of fish (including crabs, oysters, and clams).

Senate Bill 90 (Sen. Astle), Natural Resources - Vessel Excise Tax – Waterway Improvement Fund

Allocates 0.5% of specified motor fuel tax revenue to Waterway Improvement Fund and limits the vessel excise tax amount to \$15,000 per vessel for the fiscal 2014 through 2016 period. Revenue collected by DNR under the State Boat Act is credited to DNR's Waterway Improvement Fund (WIF). WIF finances projects and activities that promote, develop, and maintain Maryland's waterways for the benefit of the boating public. The vessel excise tax serves as the major source of funding for WIF and, consequently, public boating projects. However, due to a significant decrease in boat sales in recent years, WIF revenues have declined 50% since fiscal 2006. DNR must report annually for three years on the impact of limiting the vessel excise tax. A Task Force to Study Enhancing Boating and the Boating Industry in Maryland is established and required to submit a report with its findings and recommendations by September 1, 2015.

Forest Preservation

House Bill 706 (Administration), Natural Resources - Forest Preservation Act of 2013

Over the last 58 years, Maryland has lost more than 450,000 acres of forest. This bill establishes that it is the policy of the State to achieve no net loss of forest, meaning that 40% of all public and private land in Maryland is covered by tree canopy. HB 706 also makes changes aimed at preserving forest land in the State including (1) requiring DNR to provide a statewide forest resource inventory to local jurisdictions at least every five years; (2) providing local jurisdictions with guidelines, recommendations, and technical assistance on policies and standards to protect forest land and urban tree canopy from adverse effects; (3) expanding the State's forest management policy to publicly owned forest lands; (4) authorizing DNR to adopt regulations to implement the State's reforestation law; (5) expanding the authorized uses of the Reforestation Fund, which generates revenue from State and local highway construction projects; (6) increasing the amount of time that DNR has to spend reforestation funds; (7)

expanding the applicability of an existing income tax subtraction modification for reforestation or timber stand improvement; and (8) requiring DNR to convene a stakeholder group after January 1, 2017, to review the statewide forest resource inventory and make recommendations

Maryland Agricultural Land Preservation Foundation

House Bill 378, Ch. 108 (Del. Stocksdale), Maryland Agricultural Land Preservation Fund - Easement Restriction - Reimbursement

A landowner who sells an agricultural preservation easement may reserve the right to ask MALPF to release one acre or less for the purpose of constructing a dwelling house for the use only of that landowner or a child of the landowner. The landowner must pay back the amount per acre that was paid for the easement. If a dwelling has not been constructed on the lot or the lot, if subdivided, has been reunited with the remainder of the easement; and a request for reimbursement is made before the preliminary release becomes void, then this bill authorizes MALPF to reimburse a person for the money paid into the fund by a landowner for a preliminary release of a lot.

Marcellus Shale Drilling

The following legislation was recommended by the Marcellus Shale Safe Drilling Advisory Commission established in 2012:

Senate Bill 854 (Sen. Edwards), Environment - Gas and Oil Drilling - Financial Assurance

Repeals performance bond requirements for the holder of a permit to drill an oil or gas well, and instead requires compliance with several alternative financial assurance requirements. These include planning for the plugging and sealing of a proposed oil and gas well, as well as specific financial assurance, comprehensive general liability insurance, and environmental pollution liability insurance requirements. The consultant's recommended best management practices report noted that, compared to other states, Maryland's performance bond requirements are relatively high, but that, generally, performance bonding has also been deemed inadequate for providing financial assurance in the natural gas extraction industry.

Senate Bill 766/House Bill 828 (Sen. Edwards, Del. Beitzel), Business Occupations - Oil and Gas Land Professionals – Registration

Requires a person operating as a "land professional" in the State to be registered with the Department of Labor, Licensing, and Regulation and issued a registration certificate by MDE. "Land professionals," or landmen, meet with landowners and negotiate leases on behalf of companies seeking to mine or drill on a plot of land.

Public Notice Requirements (has implications for Manure to Energy projects)

House Bill 95 (Administration), Environment - Permits - New Source Performance Standards

Alters the public participation requirements associated with the issuance of NSPS permits by authorizing MDE to provide notice through an alternative process that consists of (1) electronically posting a notice of the permit application on MDE's website; (2) giving notice to the chief executive of any local government in which a portion of the source is located or proposed to be located; and (3) receiving comments from the public.

SB 563 / HB 554 (Sen. Simonaire, Del. Schuh) Environment and Public Utilities - Notice to Neighboring Jurisdictions of Applications

Requires MDE and PSC, on receipt of certain permit applications, to also ensure that notice is immediately provided to the governing body of each local government within one mile of the subject of

the application, as well as each member of the General Assembly representing any part of a county located within one mile of the subject of the application. These notice provisions apply to applications (1) to MDE for certain air quality permit; (2) to MDE for a proposed incinerator for public use or landfill system; (3) to PSC for a certificate of public convenience and necessity; (4) to PSC for construction of a generating station that meets specified criteria; and (5) to PSC for construction of a generating station and associated overhead transmission lines of certain voltage capacity, or to exercise the right of condemnation in connection with such construction.

Senate Bill 61, Ch. 1. (Administration) Environment - Public Hearings - Notice Requirement

Allows MDE to satisfy the public hearing notice requirement associated with the adoption of new air quality regulations by publishing notice on the MDE website. Beginning October 1, 2014, MDE must annually publish a notice in a newspaper of general circulation that notifies the public of the types of public notices available on the MDE website, as well as a phone number or email address that a person may contact to arrange for the receipt of future public notices by first class mail or email.

Stormwater Management and Sediment Control Plans

House Bill 97, Ch. 81 (Administration) Environment - Sediment Control and Stormwater Management Plans - Authority

Establishes a process of self-certification with the State Highway Administration, the Department of General Services, or any other State or federal agency that seeks to serve as an approval authority for these plans. This allows MDE to reallocate staff resources for oversight and implementation of higher priority State and federal water pollution control programs, such as triennial reviews of local stormwater management programs, review of MS-4 permits, and implementation of the federal Chesapeake Bay TMDL requirements

Wetlands and Waterways

Senate Bill 524 (Sen. Colburn, Del. Frush), Wetlands and Riparian Rights - Licenses and Permits for Nonwater-Dependent Projects on State or Private Wetlands

Comprehensively amends the current conditions for issuance of a license or permit for a nonwater-dependent project to be located on a pier in State or private wetlands, as part of an effort to modernize and simplify the issuance of such licenses and permits by BPW, MDE, and local governments. Nonwater-dependent projects include (1) a dwelling unit on a pier; (2) a restaurant, shop, office, or other commercial building on a pier; (3) a temporary or permanent roof or covering on a pier; (4) a pier used to support a nonwater-dependent use; and (5) a small-scale renewable energy system on a pier, including a solar, geothermal, and wind energy system.

Senate Bill 462/House Bill 994, Ch.275, (Sen. Simonaire) Environment - Wetlands and Waterways Authorizations - Installation of Personal Watercraft Lifts

Alters the minor project fee schedule. The bills recognize the disparity in size and the impact on waterways between boats and personal watercraft, and authorizes an individual to install up to six personal watercraft lifts or hoists on a pier, or a combination of up to six boat lifts and personal watercraft lifts or hoists, as long as no more than four boat lifts or hoists are installed on the pier.

Water Pollution Reporting

Senate Bill 302 (Sen. Glassman) Environment - Water Pollution Control - Reporting

Requires MDE to annually publish on its website the total amount of sewage overflow, in gallons, from sewerage systems into the Chesapeake Bay and its tributaries during the previous year, as well as the fines collected as a result of enforcement actions undertaken based on the overflows.

Miscellaneous

House Bill 936 (Del Robinson), Natural Resources - Maryland Botanical Heritage Workgroup

In accordance with the State's Nongame and Endangered Species Conservation Act, there are 345 plants listed as threatened or endangered. This bill establishes the Maryland Botanical Heritage Workgroup to (1) define challenges to the preservation of plant species native to the State and region; (2) explore opportunities for improving the preservation of native plant species; and (3) make recommendations regarding the preservation of native plant species. DNR must staff the workgroup, and the workgroup must submit a report with its findings and recommendations by December 31, 2013.

VIRGINIA

Chesapeake Bay Related Legislation (GA passed and Gov approved)

Land Conservation/Preservation

HB 1398 (Del. R. Lee Ware) Land preservation tax credits; unused tax credits

Provides that, beginning with calendar year 2013, the maximum amount of land preservation tax credits that shall be issued to taxpayers shall be \$100 million. However, the \$100 million shall continue to be annually indexed, as is done under current law. The Governor would be required to include in the Budget Bill or in his amendments to the general appropriation act a recommended appropriation from the general fund in an amount equal to the difference between the indexed amount and \$100 million to be appropriated as follows: 80 percent of the unissued credits to the Virginia Land Conservation Fund, of which at least 50 percent must be used for acquisitions with public access; 10 percent to the Civil War Site Preservation Fund; and 10 percent to the Virginia Farmland Preservation Fund.

HB 1697 (Del. Minchew) Real property tax; special land use valuation for preservation.

Makes it optional for localities to impose roll-back taxes when the owner of real property that qualifies for special land use valuation has the property rezoned for a more intensive use. Under current law, imposition of such taxes is mandatory.

Fisheries Management

HB 1400 (Del. Ransone) Oyster replenishment tax; penalties.

Reorganizes, clarifies, and renames the oyster replenishment tax system as a system of oyster resource user fees. The bill replaces the former price-based replenishment tax with a volume-based oyster resource user fee, specifying that no harvester shall pay more than one such fee per year. The bill removes the exemption from licensing requirements for an oyster grounds leaseholder, distinguishes from other fees the license fee to be paid by a person who buys from the catcher oysters caught from the public grounds, simplifies the description of the fisheries data that harvesters and others are required to record, simplifies the prohibition on carrying oysters out of state without a permit, and removes certain oyster inspection tax provisions.

HB 2254 (Del. E.T. Scott) & SB 1291 (Sen. Stuart) Menhaden fish; allowable catch for those landed in State, report. Emergency.

Establishes a total allowable landings of 144,272.84 metric tons per year for Atlantic menhaden landed in Virginia by the purse seine menhaden reduction sector, the purse seine menhaden bait sector, and the non-purse seine menhaden bait sector. This legislation authorizes the VMRC to establish and administer a limited entry purse seine menhaden bait license according to specific criteria. This total allowable landings represents a 20 percent reduction from the average 2009, 2010, and 2011 landings, as mandated by the Atlantic States Marine Fisheries Commission. Guidelines for the monitoring of all sectors of the menhaden fishery that may result in a closure of any or all sectors are established. All licensees of the three menhaden sectors shall report to the Commission according to the requirements established by the Commission. The Commission shall establish a biological sampling program to include development of an adult menhaden survey index from Virginia pound nets. License fees are established for the purse seine menhaden reduction and purse seine menhaden bait sectors. The Commission may limit the number of gear licenses or permits to fish, except for those licenses in the purse seine reduction sector. The annual menhaden harvest cap for the purse seine menhaden reduction sector shall be 87,216 metric tons, subject to annual adjustments for under-harvest or over-harvest of the cap. The bill contains a sunset date of January 1, 2015. The bill states that an emergency exists and that the bill is in force from its passage.

SB 1106 (Sen. Hanger) Fishing licenses; MRC may revoke privileges to fish within State's tidal waters, etc.

Authorizes the Virginia Marine Resources Commission to revoke a person's fishing privileges within the tidal waters if he violates any tidal fishing law and to withdraw all privileges to fish in tidal waters during the period in which any Commission-issued license has been revoked. The revocation can be for a period of up to two years.

SB 1108 (Sen. Hanger) Potomac River Compact; changes penalty for illegal fishing in Potomac River jurisdiction of court.

Amends the Potomac River Compact by changing the penalty for violating the fishing laws in the Potomac River from the current \$1,000 maximum penalty to a maximum penalty of \$3,000. The bill also requires the alleged offender, if he is a resident of Virginia or Maryland, to be tried in the state in which he resides.

SB 1110 (Sen. Hanger) Oyster inspection tax; authorizes Potomac River Fisheries Commission to impose, use of proceeds.

Authorizes the Potomac River Fisheries Commission to impose an oyster inspection tax not to exceed \$2 per bushel. Currently, under the Potomac River Compact, the Commission can impose an inspection tax that cannot exceed the higher severance tax per bushel on oysters that is imposed by Virginia or Maryland within their respective jurisdictions. The Commission's current per bushel inspection tax for oysters taken from the Potomac River is \$1. The bill provides that the proceeds from the tax are required to be used for planting seed or shell oysters on the working bottom. Both Virginia and Maryland must enact similar acts in order for the change to the Compact to go into effect.

Natural Resources Protection

HB 1531 (Del. Stolle) & SB 946 (Sen. Wagner) Public beaches; sand dredging and beach replenishment.

Authorizes the Marine Resources Commission and the Department of Environmental Quality to establish an expedited application review process for dredging of sand and beach replenishment on the public beaches abutting the waters of the Chesapeake Bay. The bill requires the agencies to establish a working group, consisting of representative stakeholders, to assist in the development of the expedited review process. The working group is to consider a requirement that the application for the sand replenishment project permit include the submission of a dredging plan by the locality for areas within the Chesapeake Bay from which the dredged material will be taken and the location of the beach replenishment project. The bill provides several types of information that such a plan would include, such as the analysis of

benthic, marine, and fishery resources; impact on any historical artifacts; and impact on other uses of the state waters and bottomlands at the dredge site.

HB 1757 (Del. E. T. Scott) Wetland and Stream Replacement Fund; established.

Establishes a special non-reverting fund known as the Wetland and Stream Replacement Fund to receive moneys paid to the State Water Control Board for mitigation of any impacts that a project may have on wetlands. The moneys in the fund are to be disbursed to purchase mitigation bank credits, if available within three years. If no credits are available within the three-year period, other actions are stipulated.

HB 2039 (Del. Webert) & SB 1054 (Sen. Black) Chesapeake Bay Watershed Implementation Plan; added to list to receive voluntary contributions of taxpayer refunds.

Adds the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia, as an option under the Voluntary Chesapeake Bay Restoration Contribution, to the list of organizations that may receive contributions of taxpayer refunds.

Renewable Energy

HB 1695 (Del. Minchew) Agricultural-customer generators, eligible; renewable energy incentives through net metering, etc.

Requires the State Corporation Commission to establish a net energy metering program for eligible agricultural customers. Agricultural net metering will allow a customer that operates a solar, wind, or aerobic or anaerobic digester gas facility of up to 500 kilowatts as part of an agricultural business to be served by multiple meters that are located at separate but contiguous sites, provided the generating facility is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the agricultural business.

Onsite Waste Systems

HB 1448 (Del. Hodges) Septic systems, failed; contracts with property owners to provide loans for repairs for failed septic systems.

Authorizes a locality, by ordinance, to create a loan program to enable the repair of property owners' failed septic systems. Any such ordinance is required to describe the arrangement of the loan program, including any partnership with a planning district commission, and is permitted to provide for the repayment of the loan through water or sewer billings, real property tax assessments, or other billings. The bill authorizes other features of a loan program and permits a locality to set a minimum ownership interest or minimum level of proof of ownership of the property for situations in which it is extremely difficult or impossible to identify all of the people who have an ownership interest in the property.

HB 1726 (Del. E. T. Scott) Non-gravel effluent drain systems for onsite sewage systems; regulations.

Directs the Board of Health to promulgate regulations for chamber and bundled expanded polystyrene effluent distribution systems for onsite sewage systems and other effluent distribution system technologies for onsite sewage systems as may be deemed necessary by the Board. The bill contains an emergency clause.

Environmental Management

HB 2048 (Del. Sherwood) & SB 1279 (Sen. Hanger) Water quality; transfer and consolidation of water quality programs.

Moves several water quality programs currently administered by the Department of Conservation and Recreation to the Department of Environmental Quality. The Department of Environmental Quality and the State Water Control Board will have oversight of water quality planning and laws dealing with stormwater management, erosion and sediment control, and the Chesapeake Bay Preservation Areas. The Virginia Soil and Water Conservation Board will have continuing responsibility for oversight of the soil and water conservation districts and of resource management planning. The Virginia Soil and Water Conservation Board will continue to be responsible for administration of the flood prevention and dam safety laws. The Board will continue to be staffed by the Department of Conservation and Recreation.

HB 2209 (Del. Knight) & SB 1309 (Sen. Hanger) Virginia Soil and Water Conservation Board; powers and duties for nutrient management program.

Transfers authority for administration of the nutrient management certification program and responsibility for adopting regulations on nitrogen application rates from the Department of Conservation and Recreation to the Virginia Soil and Water Conservation Board. The bill also empowers the Board to oversee districts' programs and to allocate general fund moneys to soil and water conservation districts to support their operations.

SB 768 (Sen. Wagner) Chesapeake Bay Watershed Implementation Plan; directs state agencies to separate Lynnhaven River from James River.

Directs state agencies to remove the Lynnhaven River watershed from inclusion in the James River Basin for purposes of the Chesapeake Bay Watershed Implementation Plan.

Nutrient Management

HB 2137 (Del. Byron) Local governments; environmental impact reports, allows purchase of urea deicing agents by municipal corporations at airports.

Raises from \$500,000 to \$2 million the cost threshold at which a locality will be required to obtain an environmental impact report for a highway project. The bill also exempts the sale of deicing agents containing urea from the current prohibition on such sales where the deicing agent is to be used by a municipal corporation at an airport.

Stormwater Management

HB 2190 (Del. Cosgrove) Stormwater management ordinances; requires state review if localities adopt more stringent requirements, etc.

Establishes a procedure for state review of the stringency of local stormwater ordinances. The bill requires localities within 30 days of the adoption of a more stringent stormwater ordinance or requirement to submit a letter report to the Department of Conservation and Recreation. The letter report is to include an explanation as to why the more stringent ordinance or requirement is necessary. In addition, within 90 days of the ordinance's adoption, a landowner or his agent can request the Department of Conservation and Recreation to determine whether the ordinance or requirement meets the standards of the state law. The Department has 90 days to make such a determination.

Virginia Budget (July 1, 2013 through June 30, 2014)

Purchase of Development Rights Program. Decreases support for the Department of Agriculture & Consumer Services Purchase of Development Rights Program by \$400,000 GF in the second year, leaving \$800,000 GF in FY 2014. The funds would have been used to provide matching grants to localities to preserve farmland but local funding for this program has declined.

Department of Conservation and Recreation - Local Stormwater Assistance Program. Authorizes the Virginia Public Building Authority to issue up to \$35.0 million GF in bonds for matching grants to local governments for eligible capital projects for the planning, design, and implementation of stormwater management practices to reduce water pollution loads. The Soil and Water Conservation Board is to issue eligibility and grant distribution guidelines. Eligible capital projects include: new stormwater management practices, stormwater retrofits, stream restoration, low impact development, buffer restoration, and wetland restoration. This effort is part of addressing the Virginia's Watershed Implementation Plan.

Nonpoint Source Pollution Funding. Provides \$16.9 million GF the first year, representing the entire year-end general fund surplus which is statutorily designated for deposit to the Water Quality Improvement Fund. Out of this amount, \$14.6 million is proposed for the implementation of agricultural best management practices through the Natural Resources Commitment Fund (8 percent of this amount is to be used by Soil and Water Conservation Districts for technical assistance). The remaining \$2.3 million is proposed for

development of local storm water management programs. Because the entire statutory deposit is used for nonpoint programs, language is included to override the *Code of Virginia*, which would otherwise require 30 percent of the fund be used for wastewater treatment plant upgrades.

Point Source Water Quality Improvement Projects. Authorizes the Virginia Public Building Authority to issue up to \$165.0 million in bonds for water quality improvement projects. These projects include: \$101.0 million to meet the state's share of the costs for signed grant agreements for upgrading biological nutrient removal technology at publicly-owned wastewater treatment plants between FY 2014 and FY 2016; \$59.0 million for combined sewer overflow projects, including \$40.0 million for the City of Richmond and \$19.0 million for the City of Lynchburg; and, \$5.0 million for the Hopewell Regional Wastewater Treatment Authority for the design and installation of nutrient removal technology.

Coastal Aquifer System. Provides \$100,000 GF the second year for monitoring the intrusion of saltwater into Virginia's coastal aquifer as part of a cooperative agreement with the U.S. Geological Survey to protect public groundwater supply.

Conservation Easement Stewardship. Provides \$73,102 GF and 1.0 position to support monitoring of conservation easements currently held by the agency and working with landowners to place additional easements.

Oyster Replenishment. Provides \$2.0 million GF the second year to enhance the agency's oyster replenishment efforts (this is an increase of \$1.5 million over 2013).

Support Marine Police. Provides \$221,572 GF the second year to support VMRC fisheries positions and two law enforcement positions that were previously funded through federal NOAA grants that have been eliminated due to federal budget reductions.

Tangier Island Seawall Project. Provides an additional \$84,000 GF the second year to match federal funding for the first phase of a joint project with the U. S. Army Corps of Engineers for the construction of a breakwater jetty on the northern end of the island to prevent erosion and protect the island from storm surges. With \$12,000 GF already in the base budget, this amendment will provide a total of \$96,000 GF in the second year.

Increased Operational Support for Soil & Water Conservation Districts. \$300,000 is provided to increase the operational support appropriated for each of the 47 soil and water conservation districts from \$80,539 per district to \$86,922 per district.

Stormwater Local Assistance Fund: Established a special non-reverting fund to be known as the Stormwater Local Assistance Fund. The Fund shall consist of bond proceeds and sums appropriated to it by the General Assembly and other grants, gifts, and moneys as may be made available to it from any other source, public or private. The purpose of the Fund is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to meet: i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements; ii) requirements for local impaired stream TMDLs; iii) water quality requirements of the Chesapeake Bay Watershed Implementation Plan (WIP); and iv) water quality requirements related to the permitting of small municipal stormwater sewer systems. The grants shall be used solely for capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration.

Wastewater Treatment and CSO Upgrades: Bonds in an aggregate principle amount not to exceed \$186,000,000 are provided for the following purposes:

- Up to \$101,000,000 to finance Nutrient Removal Grants to reimburse Significant and Non-Significant Dischargers in the Chesapeake Bay watershed for capital costs incurred for the design and installation of nutrient removal technology.
- Up to \$75,000,000 for the Combined Sewer Overflow Matching Fund to make grants to the cities of Lynchburg (\$30,000,000) and Richmond (\$45,000,000) to assist with their combined sewer overflow control projects.
- Up to \$5,000,000 for a supplemental Nutrient Removal Grant to reimburse capital costs incurred by the Hopewell Regional Wastewater Treatment Authority for the design and installation of nutrient removal technology.
- Up to \$5,000,000 for the Appomattox River Water Authority, to increase the supply of drinking water for the counties of Dinwiddie, Prince George, and Chesterfield, the cities of Colonial Heights and Petersburg, and the U.S. Army Garrison at Fort Lee, and to improve streamflow within the Appomattox River. The amount provided shall be matched by local contributions.

PENNSYLVANIA

Chesapeake Bay-related legislation as of May 7, 2013 (year 1 of 2013-2014 Session)

Stormwater Management

SB 351 (Erickson)

Would clarify ability of municipal authorities to manage stormwater.
Passed Senate. Referred to House Local Government Committee.

SB 196 (White)

Would require that PENNVEST funding for stormwater projects be consistent with a Stormwater Management Plan implemented pursuant to the Stormwater Management Act (“Act 167”).
Passed Senate. Referred to House Environmental Resources & Energy Committee.

Agricultural Compliance

HB 1200 (Sturla)

Would require that eligibility for Pennsylvania’s Preferential Farmland and Forestland Tax Assessment Program (“Clean & Green”) be conditional on compliance with Erosion & Sedimentation Planning requirements.
Referred to House Agriculture & Rural Affairs Committee.

Pharmaceutical Stewardship

HB 540 (Kortz)

Would establish an industry-funded program to properly dispose of unused pharmaceuticals.
Referred to House Health Committee.
Companion legislation expected to be introduced in the Senate (Alloway).

Consumptive Use of Water

SR 39 (Alloway)

Resolution would direct the Legislative Budget and Finance Committee to conduct a study of the establishment, implementation, and administration of fees for the consumptive use and degradation of water.

Referred to Senate Environmental Resources & Energy Committee.

Companion resolution expected to be introduced in the House (Sturla)

Urban Nutrient Management

Senate Introduction Pending (Brubaker)

Would establish limits on the content of “do-it-yourself” fertilizer for use on turf, application standards for fertilizer used on turf, and a certification program for professionals who apply fertilizer to turf. Would establish state-wide standards that preempt inconsistent local ordinances.

Alternative BMP Funding

Senate Introduction Pending (Vogel)

Would create a competitive program for funding of nutrient reductions based on un-met nutrient reduction goals. Would also direct the Legislative Budget and Finance Committee to study potential funding sources for such a program.

Conservation District Funding

House Introduction Pending (Miller)

Would designate ten percent of environmental fines and penalties for transfer to the Conservation District Fund to support county conservation district operations.