

**Legislation Report**  
**Middle Peninsula Planning District Commission**  
**February 5, 2017**

The General Assembly (GA) is moving swiftly. There are only 1½ weeks before crossover on February 13. Crossover is the point of the Session which only the House and Senate can act on bills that have passed the other body. The exception, of course, is the budget.

The work on legislative priorities continued during the previous week, with significant advancement of key legislative priorities through House Agriculture, Conservation and Natural Resources (ACNR) subcommittee and House ACNR full committee.

L. Lawrence and T. Swartzwelder provided important testimony to support the advancement of critical legislation during this past week. Key legislation advancing included:

- [HB 1096](#) Dredged material siting; fast-track permitting program.
- [HB 1307](#) Stormwater management; rural Tidewater, tiered approach to water quantity technical criteria.
- [HB 1308](#) Stormwater management; local plan review, acceptance of signed plan in lieu of review (for land disturbing projects under 1 acre).
- [HB 1091](#) Virginia Resources Authority; dredging projects.

Two legislative proposals introduced will not be heard in this year's Session, but will be studied during the interim (time between the end of the 2018 Session and the commencement of the following Session in 2019). Because there was significant concern expressed by both legislators and interested parties, including regulatory officials, letters will be developed requesting a study of **HB1566**, which proposes to add a section of the Code associated with stormwater, specifically the acceptance of a stormwater management plan by a licensed professional for land disturbing projects over 1 acre. This will be analyzed by DEQ during the interim.

And, **HB1094**, which would direct DEQ to develop criteria to allow a landowner within the Chesapeake Bay Preservation Area to raise the base elevation of land to mitigate the effect of flooding, will also be directed to an interim study by regulatory and academic institutions.

SB 693 (Lewis), creating a Waterway Management Maintenance Grant Program and Fund, administered by the Virginia Port Authority (the Authority), has passed the Senate and has been communicated to the House of Delegates. The budget amendment to fund the Program is being considered during Senate Budget discussions (these are active). HB575 (Bloxom) – the companion bill to SB639 – was approved unanimously by House Agriculture, Chesapeake and Natural Resources Committee, but was referred to House Appropriations. Del. Bloxom will present HB575 to the House Appropriations Transportation subcommittee on Monday, Feb. 5. A

budget amendment providing funding to the Grant Program and Fund was presented to House Appropriations Committee by Del. Hodges (patron of the budget amendment) on Monday, Jan. 29. R. G. Crockett of Advantus provided testimony to support the amendment on behalf of the Middle Peninsula PDC.

A story on the advancement of the various bills addressing dredging and working waterfronts appeared in the *Daily Press*:

<http://www.dailypress.com/news/politics/dp-nws-middle-peninsula-dredging-20180131-story.html>

And, VACo featured an update in the various dredging bills in its “Capitol Contact” e-newsletter:

<http://www.vaco.org/dredging-bills-advance/>

SB 951 (Surovell), which prohibits hydraulic fracturing in the Eastern Virginia Groundwater Management Area, was approved by the Senate Agriculture, Conservation and Natural Resources committee with amendments, 9-5 (with 1 Senator abstaining).

Bills expected to be discussed this week include the following:

- HB 575: Waterway Maintenance Fund and Grant Program (presentation before House Appropriations subcommittee)

A summary of the legislation and activity of the bills identified as priorities are provided below:

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**HB 493 Stormwater Local Assistance Fund; recipient of grants to use portion to pay administrative costs. *Chief patron: Hodges***

*Summary as introduced:*

**Stormwater Local Assistance Fund; grants; administrative costs.** Authorizes the recipient of a grant from the Stormwater Local Assistance Fund to use a portion of the grant funds to pay for reasonable administrative costs. The bill also allows a grant recipient to count the fair market value of administrative services as an in-kind match for as much as half of the amount of any matching funds required.

01/08/18 House: Prefiled and ordered printed; offered 01/10/18 18100338D

01/08/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/15/18 House: Assigned ACNRsub: Subcommittee #3

01/30/18 House: Impact statement from DPB (HB493)

**HB 494 Land development; replacement of trees, locality within Chesapeake Bay watershed. *Chief patron: Hodges***

*Summary as introduced:*

**Land development; replacement of trees; locality within Chesapeake Bay watershed.** Authorizes any locality within the Chesapeake Bay watershed to adopt an ordinance providing for the planting and

replacement of trees during the development process. Currently, only a locality with a population density of 75 persons per square mile may adopt such an ordinance.

01/24/18 House: Printed as engrossed 18100432D-E

01/25/18 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

01/25/18 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

01/26/18 Senate: Constitutional reading dispensed

01/26/18 Senate: Referred to Committee on Local Government

### **HB 508 Solar facilities; local regulation. *Chief patron: Hodges***

*Summary as introduced:*

**Local regulation of solar facilities.** Provides that a property owner may install a solar facility on the roof of a dwelling or other building to serve the electricity or thermal needs of that dwelling or building, provided that such installation is in compliance with any height and setback requirements in the zoning district where such property is located as well as any provisions pertaining to any local historic district. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility shall also be permitted, provided that such installation is in compliance with any height and setback requirements in the zoning district where such property is located as well as any provision pertaining to any local historic district. Any other proposed solar facility, including any solar facility that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located, shall be subject to any applicable zoning regulations of the locality.

01/31/18 House: Engrossed by House - committee substitute HB508H1

02/01/18 House: Read third time and passed House (90-Y 6-N 1-A)

02/01/18 House: VOTE: PASSAGE (90-Y 6-N 1-A)

02/02/18 Senate: Constitutional reading dispensed

02/02/18 Senate: Referred to Committee on Local Government

### **HB 509 Comprehensive plan; solar facilities. *Chief patron: Hodges***

*Summary as introduced:*

**Comprehensive plan; solar facilities.** Provides that a solar facility subject to provisions requiring the facility to be substantially in accord with a locality's comprehensive plan shall be deemed to be substantially in accord with the comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar facilities by right, (ii) such proposed solar facility is designed to serve the electricity or thermal needs of the property upon which such facility is located, or will be owned or operated by an eligible customer-generator or eligible agricultural customer-generator under § 56-594 or by a small agricultural generator under § 56-594.2, or (iii) such solar facility is advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.

01/08/18 House: Referred to Committee on Counties, Cities and Towns

01/09/18 House: Impact statement from DHCD (HB509)

01/17/18 House: Assigned CC & T sub: Subcommittee #2

01/31/18 House: Subcommittee recommends reporting with amendments (8-Y 0-N)

02/02/18 House: Reported from Counties, Cities and Towns with amendment (22-Y 0-N)

### **HB 1035 Virginia Water Supply Revolving Fund; loans for regional projects. *Chief patron: Hodges***

*Summary as introduced:*

**Virginia Water Supply Revolving Fund; loans for regional projects; priority in Eastern Virginia for alternative water source projects.** Directs the Board of Health, when making loans, loan subsidies, or grants for regional water projects in the Eastern Virginia Groundwater Management Area, to give

additional priority to projects related to the development of water sources to serve as alternatives to the withdrawal of groundwater from the coastal plain aquifer.

01/30/18 House: Subcommittee recommends reporting with substitute (7-Y 0-N)

01/31/18 House: Reported from Agriculture, Chesapeake and Natural Resources with substitute (22-Y 0-N)

01/31/18 House: Committee substitute printed 18106415D-H1

02/01/18 House: Impact statement from VDH (HB1035H1)

02/02/18 House: Read first time

**HB 1036 Eastern Virginia groundwater management; annual forum, trading work group. *Chief patron: Hodges***

*Summary as introduced:*

**Eastern Virginia groundwater management; annual forum; trading work group.** Directs the Department of Environmental Quality (the Department) to convene an annual public forum focused on the state of water resources in the Eastern Virginia Groundwater Management Area. The bill also directs the Department to convene a work group to assist the Department in carrying out the 2017 recommendation of the Eastern Virginia Groundwater Management Advisory Committee that an aquifer storage and recovery banking system be developed. The work group shall report its recommendations no later than July 1, 2019.

01/09/18 House: Prefiled and ordered printed; offered 01/10/18 18103171D

01/09/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/29/18 House: Assigned ACNR sub: Subcommittee #3

**HB 1091 Virginia Resources Authority; dredging projects. *Chief patron: Hodges***

*Summary as introduced:*

**Virginia Resources Authority; dredging projects.** Includes within the definition of the term "project" any dredging program or project undertaken to benefit the economic and community development goals of a local government.

01/15/18 House: Impact statement from DPB (HB1091)

01/29/18 House: Assigned ACNR sub: Subcommittee #3

01/30/18 House: Subcommittee recommends reporting with amendment (8-Y 0-N)

01/31/18 House: Reported from Agriculture, Chesapeake and Natural Resources with amendment (22-Y 0-N)

02/02/18 House: Read first time

**HB 1092 Dredging projects; tax increment, financing. *Chief patron: Hodges***

*Summary as introduced:*

**Tax increment financing; dredging projects.** Specifies that dredging projects are development projects eligible for tax increment financing.

02/01/18 House: Committee amendment agreed to

02/01/18 House: Engrossed by House as amended HB1092E

02/01/18 House: Printed as engrossed 18102299D-E

02/02/18 House: Read third time and passed House (97-Y 0-N 1-A)

02/02/18 House: VOTE: PASSAGE (97-Y 0-N 1-A)

**HB 1093 Middle Peninsula Chesapeake Bay Public Access Authority; duties. *Chief patron: Hodges***

*Summary as introduced:*

**Middle Peninsula Chesapeake Bay Public Access Authority; purpose.** Authorizes the Middle Peninsula Chesapeake Bay Public Access Authority (the Authority) to receive and expend public funds

and private donations and apply for permits in order to perform dredging projects on waterways and construct facilities and infrastructure within the region for which the Authority exists. The bill requires such projects to enhance recreational or commercial public access.

01/24/18 House: Read second time and engrossed

01/25/18 House: Read third time and passed House (97-Y 0-N 1-A)

01/25/18 House: VOTE: PASSAGE (97-Y 0-N 1-A)

01/26/18 Senate: Constitutional reading dispensed

01/26/18 Senate: Referred to Committee on Local Government

**HB 1094 Chesapeake Bay Preservation Areas; regulations, local permit to raise land. *Chief patron: Hodges***

*Summary as introduced:*

**Chesapeake Bay Preservation Areas; regulations; local permit to raise land.** Directs the State Water Control Board to adopt regulations to establish criteria for use by local governments in granting, denying, or modifying a request by any landowner within a Chesapeake Bay Preservation Area to raise the base elevation of his land for the purpose of mitigating the effects of flooding.

01/10/18 House: Prefiled and ordered printed; offered 01/10/18 18102373D

01/10/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/29/18 House: Assigned ACNR sub: Subcommittee #3

**HB 1095 Chesapeake Bay public water access authorities; regional dredging. *Chief patron: Hodges***

*Summary as introduced:*

**Chesapeake Bay public water access authorities; regional dredging.** Authorizes the Middle Peninsula Chesapeake Bay Public Access Authority and the Northern Neck Chesapeake Bay Public Access Authority to undertake dredging projects and authorizes those public access authorities and the Eastern Shore Water Access Authority, which currently is empowered to undertake dredging projects, to work together in any combination to undertake dredging projects in any of their jurisdictions.

01/24/18 House: Read second time and engrossed

01/25/18 House: Read third time and passed House (97-Y 0-N 1-A)

01/25/18 House: VOTE: PASSAGE (97-Y 0-N 1-A)

01/26/18 Senate: Constitutional reading dispensed

01/26/18 Senate: Referred to Committee on Local Government

**HB 1096 Dredged material siting; fast-track permitting program. *Chief patron: Hodges***

*Summary as introduced:*

**Dredged material siting; fast-track permitting program.** Directs the Department of Environmental Quality to develop, in cooperation with the Marine Resources Commission and with technical assistance from the Virginia Institute of Marine Science, a fast-track regulatory permitting program for the selection and use of appropriate sites for the disposal of dredged material. The bill requires the State Water Control Board to enact regulations to be effective no later than July 1, 2019.

01/29/18 House: Assigned ACNR sub: Subcommittee #3

01/30/18 House: Subcommittee recommends reporting with substitute (6-Y 2-N)

01/31/18 House: Reported from Agriculture, Chesapeake and Natural Resources with substitute (20-Y 2-N)

01/31/18 House: Committee substitute printed 18106411D-H1

02/02/18 House: Read first time

**HB 1307 Stormwater management; rural Tidewater, tiered approach to water quantity technical criteria. *Chief patron: Hodges***

*Summary as introduced:*

**Stormwater management; rural Tidewater; tiered approach to water quantity technical criteria; impervious cover percentage.** Allows any rural Tidewater locality, as defined in the bill, to comply with water quantity technical criteria for certain land-disturbing activities based on the percentage of impervious cover in the watershed. The bill provides that any eligible locality electing to use certain control standards shall, by ordinance, adopt an official map that indicates the percentage of impervious cover in each watershed within the locality and shall update the map at least annually. The bill allows any such locality to apply one of the following three standards for managing water quantity to any new development project: (i) if the site, as indicated on the map, has less than 5.0 percent impervious cover, the standard shall be a particular State Water Control Board regulation; (ii) if the watershed has 5.0 percent or more but less than 7.5 percent impervious cover, the standard shall be the one-year, 24-hour release method; and (iii) if the watershed has 7.5 percent or more impervious cover, the standard shall be the energy balance method. The bill provides that any project whose construction would cause the watershed in which it is located to step up to the next higher tier shall be evaluated under the energy balance method or a more stringent alternative. The bill also directs the Department of Environmental Quality to use an appropriate new or existing Regulatory Advisory Panel to assist in clarifying the interpretation and application of the MS-19 standard.

01/10/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/29/18 House: Assigned ACNR sub: Subcommittee #3

01/30/18 House: Subcommittee recommends reporting with amendment (8-Y 0-N)

01/31/18 House: Reported from Agriculture, Chesapeake and Natural Resources with amendment (22-Y 0-N)

02/02/18 House: Read first time

### **HB 1308 Stormwater management; local plan review, acceptance of signed plan in lieu of review.**

**Chief patron: Hodges**

*Summary as introduced:*

**Stormwater; local plan review; acceptance of signed plan in lieu of review.** Authorizes any rural Tidewater locality, whether or not it has opted out of administering a stormwater or erosion and sediment control program, to require that a licensed professional retained by the applicant submit a set of plans and supporting calculations for land-disturbing activities that disturb 2,500 square feet or more but less than one acre of land. The bill requires the plans to bear a certification and to be signed and sealed by the professional. The locality is required to accept such plans in satisfaction of the local plan review requirement. The bill also directs the Department of Environmental Quality to examine the possibility of expanding the use of the agreement in lieu of a stormwater management plan, currently authorized for use in the construction of certain single-family residences, to include any nonresidential development site of less than one acre in a rural Tidewater locality.

01/10/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/29/18 House: Assigned ACNR sub: Subcommittee #3

01/30/18 House: Subcommittee recommends reporting with amendment (8-Y 0-N)

01/31/18 House: Reported from Agriculture, Chesapeake and Natural Resources with amendment (22-Y 0-N)

02/02/18 House: Read first time

### **HB 1566 Stormwater; local plan review, acceptance of plan by professional engineer in lieu of review. Chief patron: Hodges**

*Summary as introduced:*

**Stormwater; local plan review; acceptance of plan by professional engineer in lieu of review.** Authorizes any stormwater management program authority or erosion and sediment control

program authority, or a locality that has opted out of administering a stormwater or erosion and sediment control program, to require that a licensed professional engineer retained by the applicant submit a set of plans and supporting calculations for land-disturbing activities of greater than one acre in extent. The bill requires the plans to be signed and stamped by the engineer. The program authority or locality is required to accept such plans in satisfaction of the local plan review requirement.

01/19/18 House: Presented and ordered printed 18104496D

01/19/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/22/18 House: Impact statement from DHCD (HB1566)

01/31/18 House: Stricken from docket by Agriculture, Chesapeake and Natural Resources (22-Y 0-N)

**HB 1567 Watercraft; optional county fee. *Chief patron: Hodges***

*Summary as introduced:*

**Optional county watercraft fee.** Authorizes counties to adopt by ordinance an annual watercraft fee for watercraft and boats that are privately owned, used solely for recreational purposes, and operated, docked, stored, or kept within county limits for more than 180 days per year. The bill provides that the fee shall be calculated according to the length of the boat and shall not exceed \$150 per year.

01/31/18 House: Subcommittee recommends striking from docket (10-Y 0-N)

**SB 951 Eastern Virginia; hydraulic fracturing prohibited. *Chief patron: Surovell***

*Summary as introduced:*

**Eastern Virginia; hydraulic fracturing prohibited.** Prohibits hydraulic fracturing, as defined in the bill, in the Eastern Virginia Groundwater Management Area.

01/19/18 Senate: Presented and ordered printed 18105517D

01/19/18 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

02/01/18 Senate: Reported from Agriculture, Conservation and Natural Resources with amendments (9-Y 5-N 1-A)