

## **Legislation Report No. 2 Middle Peninsula Planning District Commission**

The 2018 Virginia General Assembly Session completed its first full week of work on January 19. Almost 3,000 bills and resolutions have been introduced.

The work on key legislative priorities began with work on three dredging provisions. M. Conner, L. Lawrence, G.C. Morrow and a representative from the Eastern Shore visited the General Assembly to provide support to three legislative proposals addressing dredging: SB 639 (Lewis, Virginia Waterway Maintenance Fund; Grant Program); HB 1093 (Hodges, addition of dredging to purpose of Middle Peninsula Chesapeake Bay Public Access Authority ); and HB 1095 (Hodges, allowing Chesapeake Bay public water access authorities to coordinate and work together on dredging projects). A short overview of each of these proposals is included in the summary below.

SB 639 (Lewis) was approved by the Senate’s Agriculture, Natural Resources Committee unanimously, and was referred to Senate Finance Committee because it has a fiscal impact. HB 1093 and HB 1095 (Hodges) were both approved unanimously by a subcommittee of Counties, Cities and Towns Committee. Because it did not receive a ‘no’ vote, the bills will likely move through the House of Delegates on the uncontested calendar, meaning that the bills will proceed to the Senate unencumbered.

SB 639 (Lewis) and HB 575 (Bloxom) – the companion bill to SB 639 – have parallel budget amendments that provide a funding mechanism, which in the case of the Waterway Maintenance Fund originates with the transfer of un-refunded watercraft fuel taxes to a specific purpose, and directs additional transfers to the proposed Fund. Sen. Lewis’ amendment proposes from the “amounts remaining” \$5MM the first year and \$5 MM the second year. Del. Hodges’ budget amendment proposes from the “amounts remaining” \$1.5 MM the first year and \$1.5MM the second year. These items will be addressed in budget discussions within Senate Finance and House Appropriations committees, respectively.

In addition to the bills identified previously, I have included information on SB 951 (Surovell), which prohibit hydraulic fracturing in the Eastern Virginia Groundwater Management Area.

Bills expected to be discussed this week include the following:

- All stormwater bills (although not confirmed)
- HB 575: Waterway Maintenance Fund and Grant Program

Please be mindful that agendas for committees and subcommittees are still being refined and confirmed. Staff will alert the Executive Director of the PDC as soon as agendas are established for any of the PDC’s priority legislation.

A separate review of introduced bills pertaining to stormwater and groundwater is attached – because of the volume of bills addressing those items.

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**

*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

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

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

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

*Chief patron:* Hodges

*Patrons:* Hodges and Keam

*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.

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

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

01/16/18 House: Assigned CC & T sub: Subcommittee #2

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

01/19/18 House: Reported from Counties, Cities and Towns with amendments (21-Y 0-N)

**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.

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

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

01/09/18 House: Impact statement from DHCD (HB508)

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

**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: Prefiled and ordered printed; offered 01/10/18

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

**HB 574 Va. Public Procurement Act; cooperative procurement, stream restoration & stormwater management.**

*Chief patron:* Hodges

*Summary as introduced:*

**Virginia Public Procurement Act; cooperative procurement; stream restoration and stormwater management.** Excludes the purchase of (i) stream restoration and (ii) stormwater management practices, and all associated and necessary construction and maintenance, from the prohibition on using cooperative procurement to purchase construction.

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

01/08/18 House: Referred to Committee on General Laws

**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

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

**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.

01/10/18 House: Prefiled and ordered printed; offered 01/10/18  
01/10/18 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources  
01/15/18 House: Impact statement from DPB (HB1091)

**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.

01/10/18 House: Prefiled and ordered printed; offered 01/10/18  
01/10/18 House: Referred to Committee on Finance  
01/18/18 House: Impact statement from TAX (HB1092)

**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.

01/10/18 House: Prefiled and ordered printed; offered 01/10/18  
01/10/18 House: Referred to Committee on Counties, Cities and Towns  
01/17/18 House: Assigned CC & T sub: Subcommittee #2  
01/18/18 House: Subcommittee recommends reporting (8-Y 0-N)  
01/19/18 House: Reported from Counties, Cities and Towns (21-Y 0-N)

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

*Chief patron:* Hodges

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

**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.

01/10/18 House: Prefiled and ordered printed; offered 01/10/18  
01/10/18 House: Referred to Committee on Counties, Cities and Towns  
01/17/18 House: Assigned CC & T sub: Subcommittee #2  
01/18/18 House: Subcommittee recommends reporting (8-Y 0-N)  
01/19/18 House: Reported from Counties, Cities and Towns (21-Y 0-N)

**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.

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

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

**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: Presented and ordered printed

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

**HB 1308 Stormwater; 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: Presented and ordered printed

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

**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

01/19/18 House: Committee Referral Pending

**HB 1567 Optional county watercraft 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.

01/19/18 House: Presented and ordered printed

01/19/18 House: Committee Referral Pending

**HB 575 Virginia Waterway Maintenance Fund and Grant Program; established.**

*Chief patron:* Bloxom

*Summary as introduced:*

**Virginia Waterway Maintenance Fund; Grant Program.** Establishes the Virginia Waterway Maintenance Grant Program and Fund, administered by the Virginia Port Authority (the Authority), to provide grants, from funds transferred to the Fund from Commonwealth Port Fund, to local governing bodies that propose certain dredging projects and related activities. The bill directs the Authority to manage the Grant Program by developing guidelines and procedures for the application process and for the awarding of annual grants.

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

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

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

**HJ 69 2016 Virginia's Working Waterfront Master Plan.**

*Chief patron:* Bloxom

**2016 Virginia's Working Waterfront Master Plan.** Supporting the 2016 Virginia's Working Waterfront Master Plan.

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

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

**SB 265 Coastal Protection and Flooding Adaptation, Secretary of; created.**

*Chief patron:* Lewis

**Secretary of Coastal Protection and Flooding Adaptation.** Creates the executive branch position of Secretary of Coastal Protection and Flooding Adaptation (the Secretary). The Secretary shall be responsible for consolidating into a single office the resources for protection against coastal flooding

threats and flooding adaptation. The Secretary also shall be the lead in developing and in providing direction and ensuring accountability for a statewide coastal flooding adaptation strategy. The bill requires the Secretary, in cooperation with the Secretary of Natural Resources, to identify sources of funding for implementation of strategies for coastal protection and flooding adaptation.

01/15/18 Senate: Impact statement from DPB (SB265)

01/15/18 Senate: Rereferred from General Laws and Technology (14-Y 0-N)

01/15/18 Senate: Rereferred to Agriculture, Conservation and Natural Resources

01/18/18 Senate: Reported from Agriculture, Conservation and Natural Resources (10-Y 3-N)

01/18/18 Senate: Rereferred to Finance

### **SB 693 Virginia Waterway Maintenance Fund and Grant Program; established.**

*Chief patron:* Lewis

*Summary as introduced:*

**Virginia Waterway Maintenance Fund; Grant Program.** Establishes the Virginia Waterway Maintenance Grant Program and Fund, administered by the Virginia Port Authority (the Authority), to provide grants, from funds transferred to the Fund from Commonwealth Port Fund, to local governing bodies that propose certain dredging projects and related activities. The bill directs the Authority to manage the Grant Program by developing guidelines and procedures for the application process and for the awarding of annual grants.

01/10/18 Senate: Prefiled and ordered printed; offered 01/10/18

01/10/18 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

01/18/18 Senate: Reported from Agriculture, Conservation and Natural Resources with substitute (14-Y 0-N)

01/18/18 Senate: Committee substitute printed 18105456D-S1

01/18/18 Senate: Rereferred to Finance

### **SJ 55 Working waterfronts in Virginia.**

*Chief patron:* Lewis

*Summary as introduced:*

**Working waterfronts in Virginia.** Recognizing the importance of working waterfronts in Virginia.

01/10/18 Senate: Prefiled and ordered printed; offered 01/10/18

01/10/18 Senate: Referred to Committee on Rules

### **SB 951 Eastern Virginia; hydraulic fracturing prohibited.**

*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