

2010 VA General Assembly

Legislation Concerning Water & Wastewater Issues

Several pieces of legislation dealing with water and wastewater concerns are presently being considered in the Virginia General Assembly. The following is a brief summary of the major issues of interest to water and wastewater professionals. This publication reflects the status of these bills as of March 12th.

HB 82 Public sewer system; civil penalty for violation of local ordinances.

Summary as introduced: Allows any locality under an order of the Virginia Department of Environmental Quality issued pursuant to the authority of subdivision (8a) of § 62.1-44.15 to adopt an ordinance establishing a uniform schedule of civil penalties for violations of ordinances governing the introduction of pollutants and wastes into the locality's public sewer system. Such civil penalties may not be more than \$100 for the initial summons and not more than \$150 for each additional summons.

Status: 03/08/10 House: Signed by Speaker; Senate: Signed by President

HB 132 Onsite sewage systems; prohibits VDH from issuing permits that are located in a wetland.

Summary as introduced: Prohibits the Department of Health from issuing permits from alternative onsite sewage systems that are located in a wetland, (ii) setback less than 50 feet from any impaired waters, (iii) within one foot vertically of any groundwater resource, or (iv) discharging directly into a groundwater resource if located in the watershed of any impaired waters. Allows localities that include impaired waters to require maintenance standards and requirements for onsite sewage systems that exceed those established by the State Board of Health.

Status: 02/16/10 House: Left in Health, Welfare and Institutions

HB 332 Alternative onsite sewage systems; routine testing.

Summary as introduced: Prohibits the Department of Health from requiring that owners of alternative onsite sewer systems with flows of less than or equal to 1,000 gallons per day and serving a single-family dwelling provide analyzed samples of effluent on a routine and recurring basis. The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals must develop licensure for (i) employees or agents of licensed operators and (ii) owner-operators of an individual single-family dwelling that have demonstrated the competence and knowledge to operate, monitor, and maintain their own alternative onsite sewage system. Any professional engineer with a current license in the Commonwealth may elect to be deemed an owner-operator without the demonstration of further competence.

Status: 02/16/10 House: Left in Health, Welfare and Institutions

HB 396 Water and wastewater utilities; delinquent payment of rates and charges.

Summary as introduced: Removes the authority of localities and Water and Waste Authorities to hold a non-occupying owner of premises liable for delinquent rates or charges incurred by a tenant or lessee unless the owner is the same person contracting for the service.

Status: 02/16/10 House: Left in Counties, Cities and Towns

HB 484 Water or sewer companies; serving more than 25 customers to incorporate as public service company.

Summary as introduced: Requires any water or sewer company serving more than 25 customers, rather than 50 under current law, to incorporate as a public service company.

Status: 01/26/10 House: Continued to 2011 in Commerce and Labor by voice vote

HB 508 Sewage sludge; Water Control Board to notify owners of land of proposed land application site.

Summary as introduced: Requires the State Water Control Board to adopt a regulation that establishes procedures for notifying health sensitive individuals who live within two miles of the site where sewage sludge is going to be land applied. The land application cannot occur until the Department of Environmental Quality has established those conditions that will ensure that these individuals are not exposed to the sewage sludge. Such conditions could include the requirement for a buffer area between the site where the application will take place and a health sensitive individual's residence. The bill also requires the Board to adopt regulations that protect sensitive environmental features from the impacts of land application of sewage sludge.

Status: 02/03/10 House: Continued to 2011 in Agriculture, Chesapeake and Natural Resources by voice vote

HB 552 Vested rights; includes right to replace failed septic system.

Summary as introduced: Includes the right to replace failed septic systems under vested rights protection. Determinations by zoning administrators are deemed to be significant governmental acts allowing development of specific projects.

Status: 03/08/10 House: Signed by Speaker; Senate: Signed by President

HB 667 Residential Property Disclosure Act; seller required to disclose presence of wastewater system.

Summary as introduced: Adds the following seller's representation to a prospective purchaser of residential property: the owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof and maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract.

Status: 03/08/10 Senate: Passed Senate (40-Y 0-N)

HB 672 Infrastructure Project Loan Fund; created.

Summary as introduced: Creates the Virginia Infrastructure Project Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of landfill gas energy projects and sewerage system or wastewater treatment projects undertaken by a local government. The measure also specifies that a landfill gas energy project constitutes a "project" under the Virginia Resources Authority Act.

Status: 03/08/10 House: Signed by Speaker; Senate: Signed by President

HB 707 Water & sewer charges; adds Counties of Caroline & New Kent to those localities that may impose.

Summary as introduced: Adds the Counties of Caroline and New Kent to those localities that may provide that charges imposed for water or sewers shall be a lien on the real estate served by such waterline or sewer. Where residential rental real estate is involved, no lien shall attach (i) unless the user of the water or sewer services is also the owner of the real estate or (ii) unless the owner of the real estate negotiated or executed the agreement by which such water or sewer services were provided to the property.

Status: 03/12/10 House: Bill text as passed House and Senate (HB707ER)

HB 1013 Infrastructure in Urban Development Areas Loan Fund; created.

Summary as introduced: Creates the Virginia Infrastructure in Urban Development Areas Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of road, small water facility, and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. Priority for loans would be given to projects that will serve two or more local governments to encourage regional cooperation.

Status: 02/23/10 Senate: Continued to 2011 in Local Government (15-Y 0-N)

HB 1135 Pollutant Discharge Elimination permit; procedures that State Water Control Board should follow

Summary as introduced: Establishes procedures that the State Water Control Board should follow in determining whether to issue a Virginia Pollutant Discharge Elimination permit for a treatment facility that is proposing to discharge sewage, industrial wastes, or other wastes of 40,000 gallons or less per day into waters of the Chesapeake Bay watershed. In the case of these proposed small wastewater facilities, for a permit application to be considered complete, it has to include an economic and environmental analysis of various alternatives to the construction of a new facility, such as land application, connection to existing facility, or "pump and haul." If the State Water Control Board determines that the various alternatives are not feasible, then the Board may issue a permit. However, if an alternative to constructing a facility is found to be effective in handling the waste stream, the Board would not issue a permit.

Status: 03/02/10 House: Signed by Speaker; Senate: Signed by President

HB 1340 Sewage sludge; localities located in karst region to prohibit application in their boundaries.

Summary as introduced: Authorizes those localities located in karst regions to prohibit the land application of sewage sludge within their boundaries. Karst terrain is characterized by springs, caves, sinkholes, and a unique hydrogeology that results in aquifers that are highly productive but extremely vulnerable to contamination.

Status: 02/03/10 House: Continued to 2011 in Agriculture, Chesapeake and Natural Resources by voice vote

SB 12 Bristol Virginia Utilities (BVU) Authority; created

Summary as introduced: Creates an authority and converts Bristol Virginia Utilities into that authority, to be known as the BVU Authority.

Status: 03/01/10 House: Signed by Speaker; 03/02/10 Senate: Signed by President

SB 374 Alternative onsite sewage systems; waiver from examination applicants for licensure as an installer.

Summary as introduced: Provides a waiver from examination for applicants for licensure as an installer of alternative onsite sewage systems if the applicant can provide satisfactory proof to the Board of having been actively and continuously providing services as an installer of alternative onsite sewage systems immediately prior to July 1, 2007, for at least two years.

Status: 03/02/10 House: Continued to 2011 in Health, Welfare and Institutions by voice vote

SB 418 Infrastructure in Urban Development Areas Loan Fund; created

Summary as introduced: Creates the Virginia Infrastructure in Urban Development Areas Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of road, small water facility, and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. Priority for loans would be given to projects that will serve two or more local governments to encourage regional cooperation.

Status: 02/09/10 Senate: Committee substitute printed 10105190D-S1

SB 448 Onsite sewage systems, alternative; locality to enact an ordinance prohibiting use thereof

Summary as introduced: Allows any locality to enact an ordinance prohibiting the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating when sewers or sewerage disposal facilities are not available.

Status: 02/02/10 Senate: Failed to report (defeated) in Local Government (5-Y 10-N)

SB 536 Water quality analysis; adds Bedford County to list that may establish testing requirements

Summary as introduced: Adds Bedford County to the list of localities that may, by ordinance, establish testing requirements for compliance with existing federal or state drinking water quality standards for building permit applicants that propose to use private ground water wells.

Status: 01/28/10 Senate: Stricken at request of patron in Education and Health (15-Y 0-N)