

2010 Virginia General Assembly Legislation-3/4/2010

Bill #	Legislation	Pass	Fail	Approved
HB 129	Land-disturbing activities; exempts certain activities from Erosion and Sediment Control Law. Under the bill the harvesting of forest crops would not be considered a land-disturbing activity and therefore would not be regulated under the E&S law if the area on which the harvesting occurs is: (i) reforested artificially or naturally in accordance with a forest management plan developed by a professional forester or (ii) converted to agricultural or improved pasture use by following a conservation plan approved by the soil and water conservation district. Currently, such harvested areas can be exempted from the E&S law if other types of restoration procedures are implemented.		X	
HB 134	Outdoor advertising; 501(c)(3) sponsorships seen from highways are not deemed to be advertisement.		X	
HB 155	Stormwater management programs; delays for two years DCR's regulations governing. House: Incorporated by Agriculture, Chesapeake and Natural Resources (HB1220-Hugo) by voice vote			
HB 159	Noise ordinance; authorizes governing body to adopt civil penalties. House: Incorporated by Counties, Cities and Towns (HB297-Cosgrove) by voice vote			
HB 197	Secondary highway system; requirements for taking new streets into system. § 33.1-70.3. Requirements for taking new streets into state secondary highway system. <i>D. Furthermore, nothing in this section or in any regulation, policy, or practice adopted pursuant to this section shall prevent the acceptance of any street or segment of a street within a network addition that meets one or more of the public service requirements addressed in the regulations provided that the network addition satisfies all other requirements adopted pursuant to this section. In cases where a majority of the lots along the street or street segment remain undeveloped and construction traffic is expected to utilize that street or street segment after acceptance, the bonding requirement for such street or street segment may be required by the Department to be extended for up to one year beyond that required in the secondary street acceptance requirements.</i>	X		Approved by Governor
HB 206	Aboveground liquid fertilizer storage tanks; requires localities to adopt by ordinance that regulates. <i>Every locality in which an ALFST is located shall, by ordinance, regulate the installation, operation, retrofitting, maintenance, repair, abandonment, and the removal of an ALFST in order to prevent discharges, and when a discharge occurs to provide for the detection and remediation at the earliest possible stage, thus minimizing further degradation of soil, surface and ground water, and protecting human health and safety. Such ordinance shall also provide for the registration, pollution prevention standards and procedures, inventory control, inspections, the development of a liquid fertilizer discharge contingency plan, construction and installation standards, recordkeeping, inspection, and the permanent closure for an ALFST.</i>			House: Incorporated by Counties, Cities and Towns (HB1211-Spruill) by voice vote

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Bill #	Legislation	Pass	Fail	Approved
HB 209	Outdoor signs and advertising; penalties collected for violations of provisions. § 33.1-375.1. Provides that all penalties and costs collected for violations of advertising provisions when the locality has entered into an agreement with the Commonwealth Transportation Commissioner shall be paid to the affected locality. Excludes signs and advertising erected only from Saturday through the following Monday from those agreements with the Commissioner.	X		Approved by Governor
HB297	Noise ordinance; authorizes governing body to adopt civil penalties. Authorizes the governing body of a locality to adopt civil penalties for violations of noise ordinances. Civil fines will not exceed \$250 for the first offense and \$500 for each subsequent offense.			Approved by Governor
HB 333	Naming highways, etc. Allows the Commonwealth Transportation Board to name a highway, bridge, transportation facility, or interchange for a living person, group, or business entity if (i) the cost of construction of the bridge, highway, transportation facility, or interchange is paid by the person, group, or business entity, and (ii) the highway, bridge, transportation facility, or interchange has not already been named for a deceased individual.			Passed House Failed Senate
HB 336	Cash proffers; alternate improvements. Broadens a locality's ability to use cash proffers for capital projects other than those for which the cash was originally proffered under certain circumstances.		X	
HB 363	Vacant building registration. Increases the maximum registration fee required of an owner of a building that has been vacant for a continuous period of 12 months from \$25 to \$250.		X	
HB 374	Cash proffers; acceptance by localities. Delays collection or acceptance of a cash proffer by a locality until the completion of the final inspection of the subject property and prior to the time of the issuance of any certificate of occupancy.	X		Approved by Governor
HB 401	Local government; publication of notices for charter changes, referenda, and public hearings, etc.; alternatives. Gives localities alternatives to publication in a newspaper of general circulation in the locality for legal ads and other notices of proposed action.		X	
HB 438	Dam safety. Requires the Soil and Water Conservation Board to establish an incremental damage analysis procedure that provides for a new standard for the spillway design requirement. The bill requires the Board to adopt regulations that consider the impact of downstream limited-use or private roadways with low traffic volume and low public safety risk in the determination of the hazard potential classification of an impounding structure. The bill also allows an owner of a dam who has received a report from the Board containing recommendations for the correction of deficiencies in the dam to submit his own plan for such corrections. One of the two criteria for designating a dam as unsafe is changed. Currently, if there are serious deficiencies in the design or construction of the dam that, if left unaddressed, could result in a failure that may result in loss of life or damage to downstream property, the dam is cited as being unsafe. The new criterion would be that such deficiencies may result in the loss of life or "significant" damage to downstream property. §§ 10.1-605 , 10.1-607.1 , and 10.1-609 of the Code of Virginia	X		Approved by Governor

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Bill #	Legislation	Pass	Fail	Approved
HB 478	Citizen reported issues and requests; locality to establish database for information. Requires every locality to establish a database of citizen-reported issues and requests for information, and the governmental responses to such citizen inquiries. Such database shall be maintained Local database of citizen reported issues and requests in a format that allows public access via the Internet.		X	
HB 515	Wetlands and stream mitigation. Prohibits localities from regulating the location of wetlands and stream mitigation projects that are subject to a Virginia Water Protection Permit or a Corps of Engineer § 404 permit. However, a locality may continue to determine the allowed uses within its zoning classifications.	X		Approved by Governor
HB 552	Vested rights to include right to replace failed septic system. Includes the right to replace failed septic systems under vested rights protection. Also, if the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal.	X		Approved by Governor
HB 553	Regulation of signage in highway rights of way. Allows county employees and volunteers who are acting as agents of the Commonwealth Transportation Commissioner to remove and confiscate signs from the public right-of-way. If a sign is confiscated by an employee or volunteer, the sign owner shall have the right to reclaim the sign within 10 business days of the date of such confiscation. Finally, the legislation clarifies that a sign installed (on private property) that does not require use of tools or equipment does not trigger the requirement to call Miss Utility before installing the sign.	X		Approved by Governor
HB 563	Decibel level of sound; authorizes a law-enforcement officer to use certain equipment to determine. Authorizes a law-enforcement officer to use certain equipment to determine the decibel level of sound, including noise. The results of such determinations shall be accepted as prima facie evidence of the decibel level of the sound in any court or legal proceeding where the decibel level of the sound is at issue. The bill also provides that in any court or legal proceeding in which any question arises about the calibration or accuracy of such equipment used to determine the decibel level of sound, a certificate, or a true copy thereof, showing the calibration or testing for accuracy of the equipment, and when and by whom the calibration or test was made, shall be admissible as evidence of the facts therein stated.			Approved by Governor

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Bill #	Legislation	Pass	Fail	Approved
HB 582	Center for Rural Virginia; expansion and promotion of agricultural opportunities. Provides the Center for Rural Virginia with the additional authority to facilitate the development of incentives and to provide a forum for competing interests to allow for job creation and expanded economic opportunities for farm businesses and rural enterprises while ensuring the rights of localities to develop reasonable regulations of such farm businesses and rural enterprises to protect the health, safety and welfare of residents. The Center will also convene a task force comprised of representatives of local government and agricultural interests to examine and make recommendations on issues related to the expansion and promotion of farm businesses or rural enterprises over the upcoming year. This bill is identical to SB 347 .	X		Approved by Governor
HB 583	Local restrictions on farm businesses. Provides that local restriction upon activities and events at farm businesses to market and sell their products shall be reasonable and shall take into account the economic impact on the farm business of such restriction and whether such activities and events are usual and customary for farm businesses throughout the Commonwealth. The bill further provides that no local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm businesses shall be more restrictive than that in the general noise ordinance.		X	
HB 586	Local government; publication of notices for charter changes, referenda, and public hearings, etc.; alternatives. Gives localities alternatives to publication in a newspaper of general circulation in the locality for legal ads and other notices of proposed action. These alternatives include publication in at least two of the following forms of publication: (i) in a newspaper of general circulation in the locality, including such newspaper's online publication, if any; (ii) on the locality's website; (iii) on any public access channel operated by the locality, to be aired during prime time programming and at least two other times during the day; (iv) using any automated voice or text alert systems used by the locality; or (v) posting at the local public library established pursuant to § 42.1-33, if any. In addition, the bill provides that any resident of the locality annually filing a written request for notification with the locality shall be provided notice by the locality in a manner mutually agreed upon by the locality and such individual. The request shall include the resident's name, address, zip code, daytime telephone number, and electronic mail address, if available. In selecting the methods of publication, the bill requires the locality to publish/advertise in a manner gauged to ensure that the maximum number of persons within the locality are likely to be informed of the existence and content of the proposed action. The bill contains technical amendments.		X	

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Bill #	Legislation	Pass	Fail	Approved
HB 619	Erosion and sediment control; penalty. Removes the specific authority of a locality to impose a \$1,000 civil penalty on a person who engages in a land-disturbing activity without having an approved plan. Instead, any violation of any erosion and sediment control regulation or order of the Virginia Soil and Water Conservation Board, any provision of a local program, or condition of a permit will be subject to a civil penalty of \$100 to \$1,000.	X		Approved by Governor
HB 635	Family subdivision. Clarifies that for purposes of dividing a lot for sale or gift to a member of the immediate family, such sale or gift may include the family member's spouse.	X		Approved by Governor
HB 697	Virginia Water Protection Permit. Authorizes the State Water Control Board to consider whether the proposed activity for which a water withdrawal permit is being sought is in accordance with the state water resources plan.		X	
HB 766	Legal notices by localities. Provides that in any instance in which a locality is required to publish a notice in a newspaper having a general circulation in the locality, and the locality in good faith attempts to have such notice published, a failure by the publisher of the newspaper to properly publish such notice shall not invalidate any action of the locality if the locality has also published such on the locality's World Wide Web site for the period required by law.		X	Passed House, Failed Senate
HB 811	Board of zoning appeals; review of decision. Clarifies that a board of zoning appeals is not a party to any case in circuit court reviewing a decision by the board. The bill also provides that a writ of certiorari granted by a circuit court to review a board's decision shall be served on the secretary or chairman of the board instead of on the relator's attorney. The bill also provides that costs cannot be allowed against the board, but only against the locality.			Incorporated by Counties, Cities and Towns (HB1063-Athey) by voice vote
HB 987	Regulation of stormwater. Amends current law by removing the requirement that waivers given to federal, state, or local government agencies that develop, redevelop or retrofit outfalls, discharges or property so that there is a permanent reduction in postdevelopment stormwater flow and pollutant loading be full waivers. The amount of the waiver to such agencies shall be equal to the product of the fee that would be charged to the agency multiplied by the percentage of the stormwater runoff captured by the agency's storm drainage or stormwater control facilities.		X	

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Bill #	Legislation	Pass	Fail	Approved
HB1062	Decisions of zoning administrator. Reduces the time in which a zoning administrator shall respond to a request for a decision or determination on zoning matters from 90 days to 60 days and provides that if the zoning administrator fails to respond within the 60-day period, the party seeking the decision or determination may file a writ of mandamus in circuit court to compel a response. The party filing the writ of mandamus shall be entitled to its cost, including reasonable attorney fees.		X	
HB 1063	Appeal of board of zoning appeals decisions. Provides that written notice of a zoning violation or a written order of the zoning administrator shall include the applicable appeal fee other information regarding the appeal process. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs to process the appeal. Additionally, in an appeal of a decision of the board of zoning appeals (BZA), the BZA shall not be named as a party to the proceedings.	X		Approved by Governor
HB 1064	Appeal of board of zoning appeals decisions. Provides that written notice of a zoning violation or a written order of the zoning administrator shall include the applicable appeal fee other information regarding the appeal process. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs to process the appeal. Additionally, in an appeal of a decision of the board of zoning appeals (BZA), the BZA shall not be named as a party to the proceedings.			Incorporated by Counties, Cities and Towns (HB1063-Athey) by voice vote
HB1100	Stormwater management facilities; liability. Provides that a common interest community shall enjoy limited liability protection relating to a stormwater management facility located on property owned by that community if: (i) the common interest community cedes the responsibility for the maintenance, repair, and replacement of a stormwater management facility to the Commonwealth or a political subdivision thereof, (ii) the action has been memorialized by contract or other instrument executed by both parties, and (iii) the Commonwealth or the governing body of the political subdivision accepted the responsibility ceded by the common interest community in writing or by resolution. The immunity granted by this provision does not extend to actions or omissions by the landowner constituting intentional or willful misconduct or gross negligence.	X		Approved by Governor

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Bill #	Legislation	Pass	Fail	Approved
HB 1126	Uniform Statewide Building Code; grading limitations. Provides that the Uniform Statewide Building Code shall not supersede counties', municipalities', and other political subdivisions' grading regulations prescribing maximum slopes in the construction or substantial renovation of single-family detached dwelling units located on lots not exceeding one-half acre.		X	
HB 1137	Ground water withdrawal permit fees. Increases the maximum amount that the State Water Control Board can charge for a permit to withdraw ground water from \$6,000 to \$12,000. The term of a ground water permit is up to 10 years. The State Water Control Board is also authorized to set up a fee schedule to allow permit holders to pay their permit fees on an annual basis over the term of the permit.		X	
HB 1211	Aboveground liquid fertilizer storage tanks. Authorizes localities to adopt an ordinance that makes it unlawful for any person to construct, maintain, or use any aboveground liquid fertilizer storage tank having a capacity of more than 100,000 gallons without obtaining a permit from the local fire official. The penalty for violating the ordinance is not to exceed a Class 1 misdemeanor. This bill contains a December 31, 2011, sunset.	X		Approved by Governor
HB 1220	Stormwater management regulations; effective date. Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay - wide TMDL, but no later than December 1, 2011. The bill also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. This bill incorporates HB 1311 and HB 155. This bill is identical to SB 395 .	X		Approved by Governor
HB 1250	Vested rights. Provides that the issuance of any written order, requirement, decision, or determination by the zoning administrator regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to change, modification, or reversal shall be considered a significant affirmative governmental act for purposes of determining vested rights.	X		Approved by Governor
HB 1277	1. That §§ 46.2-665 , 46.2-666 , and 46.2-670 of the Code of Virginia are amended and reenacted as follows:§ 46.2-665 . Vehicles used for agricultural or horticultural purposes. A. No person shall be required to obtain the registration certificate, license plates and decals, or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.B. This exemption shall only apply to vehicles which <i>pickup trucks, panel trucks, sport utility vehicles, and vehicles having a gross vehicle weight rating greater than 7,500 pounds, and trailers and semitrailers that are not operated on or over any public highway in this Commonwealth for any purpose other than:</i>	X		Approved by Governor

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Bill #	Legislation	Pass	Fail	Approved
HB 1131	Stormwater regulations. Delays the effective date of regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria for stormwater to no later than September 1, 2011. The bill also requires the Virginia Soil and Water Conservation Board to conform the regulation to be consistent with this effective date.			Incorporated by Agriculture, Chesapeake and Natural Resources (HB1220-Hugo)
HB 1320	Dam safety. Authorizes the Director of the Department of Conservation and Recreation, with the approval of the Virginia Soil and Water Conservation Board, to award grants from the Dam Safety, Flood Prevention and Protection Assistance Fund to local governments and private entities for dam break analysis, the mapping and digitization of dam break inundation zones, and incremental damage analysis. Currently, only local governments are eligible to receive grants. The bill also establishes the Dam Safety Administrative Fund, which is capitalized with moneys from the dam application permit fees. The moneys in the fund are to be used for administration of the dam safety program.	X		Approved by Governor
HB 1348	Provisions of a subdivision ordinance. Provides that with regard to approval by a locality of surety provided by a developer, "designated administrative agency" means the planning commission of the locality or an agent designated by the governing body of the locality for such purpose. <i>"As used in this section, "designated administrative agency" means the planning commission of the locality or an agent designated by the governing body of the locality for such purpose as set forth in §§ 15.2-2258 through 15.2-2261;"</i>	X		Approved by Governor
HB 1383	Board of zoning appeals. Changes the vote requirement from a majority of "the membership of the board" to a majority of "those board members present and voting" for purposes of reversing any order, requirement, decision or determination of an administrative officer as well as other board actions.	X		Approved by Governor
SB 64	Local government authority to regulate signs. Allows county employees and volunteers who are acting as agents of the Commonwealth Transportation Commissioner to remove and confiscate signs from the public right-of-way. If a sign is confiscated by an employee or volunteer, the sign owner shall have the right to reclaim the sign within 10 business days of the date of such confiscation. Finally, the legislation clarifies that a sign installed (on private property) that does not require use of tools or equipment does not trigger the requirement to call Miss Utility before installing the sign.	X		Approved by Governor
SB 81	Use value assessment; agricultural, forestal, and agricultural and forestal districts. Provides that certain noncontiguous real property may be included as part of an agricultural, forestal, or agricultural and forestal district. Any noncontiguous real property included as part of an agricultural, forestal, or agricultural and forestal district would be deemed to be contiguous to any other real property located in such district for purposes of use value assessment.	X		Approved by Governor
SB 120	Civil penalties for violations of noise ordinance. Authorizes the governing body of a locality to adopt civil penalties for violations of noise ordinances.			Incorporated in SB 246

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Bill #	Legislation	Pass	Fail	Approved
SB 123	Single lot development; stormwater management. Requires the developer of a single lot to provide stormwater management where substantial redevelopment of the lot is proposed. Defines "substantial redevelopment" as land-disturbing activities that occur on more than 15 percent of the square footage of any single lot.		X	
SB 246	Civil penalties for violations of noise ordinance. Authorizes the governing body of a locality to adopt civil penalties for violations of noise ordinances. The penalty for an initial violation shall not exceed \$250 and penalties for subsequent violations shall not exceed \$500.	X		Approved by Governor
SB 276	Dam safety. Allows those dams that do not comply with dam safety regulations to continue to operate so long as the owner of the dam has adopted a dam safety emergency action plan. These dams would continue to operate under conditional operation and maintenance certificates without correcting any deficiencies as long as funding is not available through the Dam Safety, Flood Prevention and Protection Assistance Fund. Once such funding is available the dams will have to comply with all of the dam safety regulations.	X		Approved by Governor
SB 290	Board for Housing and Community Development; Green Building Code. Requires the Board for Housing and Community Development to promulgate a Green Building Code as a part of the Uniform Statewide Building Code.		X	
SB 318	Subdivision ordinance; dedication of public improvements. Expands the manner by which a developer may provide financial assurances to a locality prior to a locality accepting the dedication of public improvements.	X		Approved by Governor
SB 347	Center for Rural Virginia; expansion and promotion of agricultural opportunities. Provides the Center for Rural Virginia with the additional authority to facilitate the development of incentives and to provide a forum for competing interests to allow for job creation and expanded economic opportunities for farm businesses and rural enterprises while ensuring the rights of localities to develop reasonable regulations of such farm businesses and rural enterprises to protect the health, safety and welfare of residents. The Center will also convene a task force comprised of representatives of local government and agricultural interests to examine and make recommendations on issues related to the expansion and promotion of farm businesses or rural enterprises over the upcoming year. This bill is identical to HB 582 .	X		Approved by Governor
SB 348	Local restrictions on farm businesses. Provides that local restriction upon activities and events at farm businesses to market and sell their products shall be reasonable and shall take into account the economic impact on the farm business of such restriction and whether such activities and events are usual and customary for farm businesses throughout the Commonwealth. The bill further provides that no local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm businesses shall be more restrictive than that in the general noise ordinance.		X	

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Bill #	Legislation	Pass	Fail	Approved
SB 395	Stormwater management regulations; effective date. Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay - wide TMDL, but no later than December 1, 2011. This bill incorporates SB 677 , SB 245 , and SB 681 . This bill is identical to HB 1220 .	X		Approved by Governor
SB 420	Urban development areas. Sets certain densities in urban development areas according to the population of the locality that designated the urban development area. The bill also requires that, to the extent possible, certain federal funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. The bill mandates that the Commission on Local Government report on localities' compliance with the statute requiring the designation of urban development areas.	X		Approved by Governor
SB 448	Alternative onsite sewage systems. 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.		X	
SB 551	Local rezoning actions. Provides for more limited review by VDOT when a property being considered for rezoning has already been subject to a VDOT review in connection with development of a local comprehensive plan.		X	
SB 571	Zoning; transfer of development rights. Allows any county with the urban county executive form of government to provide in its zoning ordinances for the dedication of density or other rights to develop real property, as defined by the county, from one or more parcels of property located in the county that are not the subject of a development application to one or more parcels of property located elsewhere in the county that are the subject of a development application. Currently, Fairfax County is the only county with the urban county executive form of government.		X	
SB 627	Nutrient reduction credits. Clarifies who receives credit for the nutrient reductions associated with a stormwater nonpoint nutrient offset. Offsets are used to achieve compliance with construction site stormwater nutrient discharge requirements. The nonpoint nutrient offsets system works very similar to wetland banks. These offsets are only available when capturing all nutrients is too difficult on a development site. If the land disturbing activity using a nonpoint nutrient offset discharges to an MS4, the locality receives credit toward its nutrient allocation. If the discharge is not to a MS4 then the reductions are applied toward compliance with the nutrient allocation applicable to that area.	X		Approved by Governor
SB 632	Cash proffers; acceptance by localities. Delays collection or acceptance of a cash proffer by a locality until the completion of the final inspection of the subject property and prior to the time of the issuance of any certificate of occupancy.	X		Approved by Governor

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Bill #	Legislation	Pass	Fail	Approved
SB 636	Zoning; transfer of development rights. Allows any county with the urban county executive form of government to provide in its zoning ordinances for the dedication of density or other rights to develop real property, as defined by the county, from one or more parcels of property located in the county that are not the subject of a development application to one or more parcels of property located elsewhere in the county that are the subject of a development application. Currently, Fairfax County is the only county with the county manager plan of government.		X	
SB 640	Cash proffer guidelines. Provides that no locality shall establish any rate policy or guideline regarding the amount and timing of the payment of cash proffers to such locality unless such rate policy or guideline is established by ordinance.		X	
SB 650	Regulation of stormwater. Amends current law by removing the requirement that waivers given to federal, state, or local government agencies that develop, redevelop or retrofit outfalls, discharges or property so that there is a permanent reduction in postdevelopment stormwater flow and pollutant loading be full waivers. The amount of the waiver to such agencies shall be equal to the product of the fee that would be charged to the agency multiplied by the percentage of the stormwater runoff captured by the agency's storm drainage or stormwater control facilities.		X	
SB 681	Stormwater regulations. Delays the effective date of regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria for stormwater to no later than September 1, 2011. The bill also requires the Virginia Soil and Water Conservation Board to conform the regulation to be consistent with this effective date.			Incorporated SB 395