

**Land Use, Planning and Zoning Legislation
2011 General Assembly Session**

FAILED LEGISLATION	
<u>HB 987</u> (Jones)	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
<u>HB 1474</u> (Ware)	Allows public service authorities to annually file general erosion and sediment control specifications with the Virginia Soil and Water Conservation Board for the construction of water and sewer lines.
<u>HB 1561</u> (Cole)	Governing body must be notified of zoning administrator's decisions
<u>HB 1578</u> (Dance)	Localities cannot discriminate against low and moderate income in land use decisions
<u>HB 1623</u> (Knight)	Provides that no individual or general Virginia Water Protection Permit is required to be issued for a project's impacts to wetlands if the U.S. Army Corps of Engineers has issued an individual wetlands permit.
<u>HB 1721</u> (R. Marshall)	Makes urban development areas (UDA) optional
<u>HB 1864</u> (Cole) <u>SB 869</u> (Stuart)	Amends provisions of the UDA statute
<u>HB 1935</u> (Ware)	Allows localities to meet certain notice requirements by utilizing their web sites, radio or television rather than a newspaper of general circulation.
<u>HB 2185</u> (Lewis)	Requires soil evaluations for onsite sewer systems permits
<u>HB 2071</u> (Ingram)	Provides for an exemption from stormwater utility fees for certain religious and nonprofit uses.
<u>HB 2079</u> (Landes)	Gives localities alternatives to publication in a newspaper of general circulation in the locality for legal ads and other notices of proposed action.
<u>HB 2273</u> (Keam)	Local building officials; authority to issue summonses for violations of statutes.
<u>HB2348</u> (Morrissey)	Requires certain localities to regulate the sale and application of fertilizers and deicing agents.
<u>HB 2492</u> (Hugo)	Exempts existing alternative onsite sewage systems (AOSS) serving residences from Va. Dept. of Health (VDH) operations and maintenance regulations
<u>HB 2500</u> (Armstrong)	Removes, among other things, the presumption of correctness from local land use decisions
<u>SB 551</u> (Barker)	Rezoning actions, local; provides for more limited review by VDOT
<u>SB 571</u> (Ticer)	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
<u>SB 582</u> (Marsden)	Requires certain localities to regulate the sale and application of fertilizers and deicing agents.

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<u>SB650 (Quayle)</u>	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.
<u>SB 869 (Stuart)</u>	Makes several changes to the urban development area legislation to exclude certain lands.
<u>SB 885 (Blevins)</u>	Provides that no individual or general Virginia Water Protection Permit is required to be issued for a project's impacts to wetlands if the U.S. Army Corps of Engineers has issued an individual wetlands permit.
<u>SB 996 (Stuart)</u>	Allows localities to delay collection or acceptance of a cash proffer until the completion of the final inspection of the subject property and prior to the time of the issuance of any certificate of occupancy. Currently, localities are required to delay collection or acceptance until such time.
<u>SB 997 (Stuart)</u>	Performance bond for street not released until street accepted by VDOT or locality
<u>SB 1190 (Norment)</u>	Adds aquaculture to the Right to Farm Act
<u>SB 1277 (Obenshain)</u>	Exempts AOSS designed by professional engineers from VDH performance requirements and horizontal setbacks
LEGISLATION PASSED BOTH HOUSES-AWAITS GOVERNOR'S ACTION	
<u>HB 1457 (Marshall)</u>	Freedom of Information Act. § 2.2-3714 . Violations and penalties. In a proceeding commenced against members <i>any officer, employee, or member of a public body</i> under § 2.2-3713 for a violation of § 2.2-3704 , 2.2-3705.1 through 2.2-3705.8 , 2.2-3706 , 2.2-3707 , 2.2-3708 , 2.2-3708.1 , 2.2-3710 , 2.2-3711 or 2.2-3712 , the court, if it finds that a violation was willfully and knowingly made, shall impose upon such <i>officer, employee, or member</i> in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$250 \$500 nor more than \$1,000 \$2,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$1,000 \$2,000 nor more than \$2,500 \$5,000.
<u>HB 1495 (Ware)</u>	Erosion and sediment control plans; local waste, water, and sewer authorities. Authorizes water, sewer, sewage disposal, stormwater control, refuse collection, and disposal authorities to file a general erosion and sediment control plan annually with the Virginia Soil and Water Conservation Board. The Board may also charge fees equal to the lower of (i) \$1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance.
<u>HB 1621 (Knight)</u> <u>SB 1104 (Hanger)</u>	Expands the definition of open-space land in the Open-Space Land Act to include agricultural and forestal lands used for the production of food and other agricultural and forestal products
<u>HB 1626 (Knight)</u>	Allows homeowners to upgrade voluntarily to onsite or

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	alternative discharging sewage system
<u>HB 1737</u> (Bulova)	Clarifies law regarding local authority to regulate stormwater
<u>HB 1831</u> (Scott) <u>SB 1055</u> (Stuart)	Fertilizer; regulation of application and labeling. Prohibits the sale, distribution and use of lawn maintenance fertilizer containing phosphorus beginning December 31, 2013
<u>HB 1844</u> (Athey) <u>Important need to review</u>	Notice of zoning administrator actions. Provides that when an applicant requesting a determination or other action from the zoning administrator is not the owner of the subject property, written notice shall be given to the owner within 10 days of the request. § 15.2-2204.
<u>HB 1931</u> (D. Marshall) <u>SB 783</u> (Watkins)	Provides that a cluster development is otherwise subject to applicable land use ordinances of the locality; however, the locality shall not impose more stringent land use requirements for such cluster development. Also, the locality shall not prohibit extension of water or sewer from an adjacent property to a cluster development provided the cluster development is located within an area designated for water and sewer service by a county, city, or town.
<u>HB 1963</u> (Rust)	Adds "life cycle costs" to the facilities estimates prepared as part of the comprehensive plan
<u>HB 2020</u> (May)	Virginia Freedom of Information Act; definitions. Clarifies that the definition of a "public record" does not include records that are not prepared for or used in the transaction of public business. The bill is in response to a court case in Loudoun County.
<u>HB 2057</u> (Poindexter)	Virginia Department of Agriculture and Consumer Services; regulation of fertilizer. Revises the laws governing the manufacture and application of fertilizer to: (i) incorporate by reference the guidelines adopted by the Association of American Plant Food Control Officials, (ii) adopt generic precautionary labeling guidelines to prevent fertilizer runoff into the waterways, (iii) shift the permit year to begin on April 1 instead of July 1, (iv) require distributors of commercial fertilizer to submit an annual statistical report to the Commissioner regarding the amounts and localities of distributed product, (v) allow the Commissioner to issue written notices or warnings in lieu of instituting formal proceedings, (vi) authorize the Board to impose a civil penalty of up to \$250 on anyone who violates a written stop sale, and (vii) allow the imposition of late fees for failing to renew a registration, license, or permit and for failing to obtain a registration, license, or permit after receiving notice of this requirement. This bill is identical to SB 990 (Stuart).
<u>HB 2078</u> (Landes) <u>SB 1092</u> (Hanger)	Creates a program administrator designated by the local governing body to oversee the application process under the Agricultural and Forestal Districts Act. Localities are given the authority to prescribe which maps or aerial photographs shall

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	<p>accompany the application, and applications are to first be reviewed by the program administrator and the advisory committee before going to the local governing body. Currently, the applications are first reviewed by the local governing body before going to the planning commission and advisory committee for their recommendations. The procedure for withdrawal of land from agricultural and forestal districts is amended to mirror the procedure for creation of a district. This bill is identical to SB 1092.</p>
<u>HB 2338</u> (Garrett)	<p>Alternative method for local government to give notice by mail. Notwithstanding any other provision of law, general or special, a locality may give notice by regular mail in any instance in which two or more notices are required for the same action, the first notice is required to be sent by certified or registered mail, and at least one notice has previously been sent by certified or registered mail. Such notice shall be sent to the last address available through government records.</p>
<u>HB 2408</u> (L. Ware)	<p>Notice to localities of certain state capital projects. Requires that notice of certain state capital projects involving new construction costing at least \$500,000 be sent to localities by registered mail and specifies that the notice shall be sent prior to, rather than during, the planning phase of the project. Failure of any state agency to strictly comply with such requirements will justify entry of an injunction on behalf of the locality.</p>
<u>HB 2411</u> (Lingamfelter)	<p>Extension of land use approvals; performance bonds. Provides that in instances where a locality has enacted a bonding moratorium or deferral option, existing performance bonds or other financial guarantees of completion may be waived or modified by the locality, in which case various land use approval extensions and deadline extensions shall continue to apply.</p>
<u>HB 2472</u> (Poindexter)	<p>Performance guarantees. Provides that no locality shall require that a performance guarantee apply to any facility or improvement unless such facility or improvement is shown on the approved plat or plan. Also, the terms, conditions, and specifications contained in any agreement between a locality and an owner or developer of property entered into in conjunction with any performance guarantee shall be limited to those items provided for in the approved plan, plat, permit application, or similar document for which such performance guarantee is applicable.</p>
<u>SB 862</u> (Wagner)	<p>Commonwealth Energy Policy; local renewable energy facility siting ordinances. Requires that a local ordinance addressing the siting of renewable energy facilities be consistent with provisions of the Commonwealth Energy Policy, provide reasonable criteria to be addressed in the siting of any such facility that generates electricity from wind and solar resources,</p>

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	and include provisions establishing reasonable requirements on the siting of any such facility. Measures required by the ordinance are required to be consistent with the locality's existing ordinances
<u>SB 873 (Stuart)</u>	Subdivision of a lot held in trust for conveyance to a family member. Authorizes localities to provide for subdivision of a lot for conveyance to a family member if the land is held in trust. All trust beneficiaries must be immediate family members and must agree that the property should be subdivided. Additionally, all beneficiaries must agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. A locality may provide exceptions to this 15-year time period but must execute a writing reflecting such modification.
<u>SB 963 (Northam)</u>	Aquaculture opportunity zones. Removes the authority of the Marine Resources Commission to establish commercial shellfish aquaculture opportunity zones in which temporary protective enclosures can be placed in the waters off the shores of the Northern Neck, the Middle Peninsula, and Tangier Island.
<u>SB 999(Stosch)</u> <u>Could have Zoning Impact</u>	Local incentives for the design, development, or production of goods for national defense. Creates a separate classification of machinery and tools designed and used directly in manufacturing or processing materials, components, or equipment for national defense. Local governments would be authorized to tax such machinery and tools at a rate that is less than the rate generally applicable to machinery and tools.
<u>SB 1064 (Edwards)</u>	Erosion and sediment control plans; local waste, water, and sewer authorities. Authorizes water, sewer, sewage disposal, stormwater control, refuse collection, and disposal authorities to file a general erosion and sediment control plan annually with the Virginia Soil and Water Conservation Board. For such authorities, the Board may also charge fees equal to the lower of (i) \$1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance.
<u>SB 1099 (Hanger)</u>	Nonpoint nutrient offsets. Establishes priorities to be used by permit issuing authorities when considering off-site phosphorous control options for stormwater permits. The bill also provides conditions under which use of an off-site option can be granted. In addition, permit-issuing authorities are to allow the full or partial substitution of nonpoint nutrient offsets for existing on-site nutrient control when the offsets will compensate for 10 or fewer pounds of the annual phosphorous requirement associated with the land-disturbing activity or the existing on-site controls are not functioning as anticipated and

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	<p>the use of the offset will make up the deficiency. The bill authorizes the acquisition of nonpoint nutrient offsets in compliance actions to compensate for nutrient control deficiencies when nutrient control deficiencies occur during the period of noncompliance and for permanent deficiencies. The prioritization established for existing nutrient reductions at the time of the land-disturbing activity and the conditions under which off-site options may be utilized are limited to those instances when there are nonpoint nutrient offsets available within the locality.</p>
<u>SB 1204</u> (Obenshain)	<p>Cash proffers; court costs.</p> <p>A. Notwithstanding the provisions of any cash proffer requested, offered, or accepted pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1 for residential construction on a per-dwelling unit or per-home basis, cash payment made pursuant to such a cash proffer shall be collected or accepted by any locality only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property.</p> <p>B. <i>In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action successfully challenging an ordinance, administrative or other action as being in conflict with this section.</i></p> <p>C. The provisions of this section shall expire on July 1, 2014 2015.</p>
<u>SB 1206</u> (Obenshain)	<p>Traffic impact analysis. Removes the requirement that a supplemental traffic analysis accompany a plat or plan submitted to the Department of Transportation by a locality because the plat or plan substantially affects transportation on state-controlled highways if such plat or plan is permissible by right under the local zoning ordinance.</p>
<u>SB 1221</u> (Barker)	<p>Provides for more limited VDOT review when a property being considered for rezoning has already been subject to a TIA in connection with development of a local comprehensive plan</p>
<u>SB 1339</u> (Puller)	<p>Allows localities to use population projections prepared by a Metropolitan Planning Organization in designating their UDA</p>
<u>SB 1457</u> (Hanger)	<p>Among other things, preserves local regulation of outdoor advertising of alcoholic beverages</p>
<u>SB 1462</u> (Puckett)	<p>Requires VDOT to review TIA and subdivision street acceptance regulations by 11/30/11; review exempt from</p>

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	Administrative Process Act
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