

**SECOND
INTERIM REPORT
OF THE MOSS COMMISSION ON**

**THE FUTURE OF
VIRGINIA'S ENVIRONMENT**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 15

**COMMONWEALTH OF VIRGINIA
RICHMOND
2000**

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**SECOND INTERIM REPORT OF THE
MOSS COMMISSION ON
THE FUTURE OF VIRGINIA'S ENVIRONMENT**

(HJR 136, 1998)

to

**The Honorable James S. Gilmore III, Governor,
and
the General Assembly of Virginia**

JULY 1999

I. AUTHORIZATION FOR THE STUDY AND INTRODUCTION

The 1996 Session of the General Assembly passed House Joint Resolution 221 creating a two-year joint legislative study committee on "the future of Virginia's environment." The resolution directed the joint study committee to examine the history of environmental and natural resources programs and the budgetary trends for resources management in the Commonwealth. In addition, the study committee was directed to develop a long-term vision and plan for the future protection, enhancement, and utilization of Virginia's natural resources. It was also authorized to consider additional issues, as it deemed appropriate, such as innovative approaches used in other states, integrated environmental strategies, and effective environmental negotiation mechanisms.

The directives of HJR 221 are based on findings by the General Assembly that the citizens of the Commonwealth support the protection of clean air and water; the conservation of natural resources; the protection of open spaces, natural areas and parks; and economic development that does not degrade the environment. HJR 221 also points out that reorganizations and proposed reorganizations of natural resource management and protection responsibilities in the Commonwealth have created uncertainty and unpredictability in the Commonwealth's approach to resource management. The resolution adds that the citizens of the Commonwealth want a more certain and definitive course for protecting and investing in the state's natural resources, and therefore it is in the best interest of the Commonwealth to articulate a vision and plan for the future of Virginia's environment.

The HJR 221 study committee, also known as the Moss Commission on the Future of Virginia's Environment after its chairman and the patron of its enabling legislation, accomplished much in its first two years of existence, including traveling the Commonwealth to hear citizens' concerns, formulating and adopting the ideas that became the Virginia Water

Quality Improvement Act of 1997 and the passage of strong park planning legislation, and providing tens of millions of dollars in funding for environmental and open space protection. The Moss Commission also sought testimony from local, state, national and international environmental and natural resource experts to assist in development of a vision and plan for the future of Virginia's environment. To continue these successful efforts, the 1998 Session of the General Assembly passed HJR 136 (Appendix 1), continuing the Commission for an additional year. The 1998 General Assembly also passed SJR 177 (Appendix 2), patroned by Senator Whipple, calling on the Commission to examine issues related to "smart growth." The 1998 Session also saw passage of HJR 195, patroned by Delegate Keating, which created a study on ways to address demands for increased services and infrastructure resulting from residential growth. HJR 195 (Appendix 3) also called for coordination with this Commission.

Documentation of the Commission's first two years of activity can be found in House Document No. 4 (1999), attached as Appendix 4. This document reports on the study committee's third year of activities.

II. FULL COMMITTEE ACTIVITIES

During its third year, the study committee held seven work sessions. The purpose of the parks subcommittee was expanded to include open space conservation and new subcommittees were formed on solid waste, the Water Quality Improvement Act and to draft a vision document. These subcommittees held another 12 meetings during the year. This section describes the full committee activities. Following sections describe the activities of the subcommittees and the full committee's action on subcommittee recommendations.

July 30, 1998, Richmond

At its initial meeting of 1988 in Richmond the committee received a number of presentations related to the issues presented to it by SJR 177. Senator Whipple presented her reasons for introducing SJR 177 and conveyed how Arlington County provides a good example of how planning can make for livable communities and makes economic sense. A central issue raised in regard to smart growth is to assure that state actions do not contribute to sprawl but rather aid in fostering well planned, appropriately sited development with a relationship to existing infrastructure and natural resources protection. It was also pointed out that "smart growth" is not about finding ways to pay for growth but is about assuring that we do not continue poor (costly) planning and other decision at the local and state level. These can be mistakes that lead to the consumption of valuable natural resources and the expenditure of additional tax dollars.

In response to SJR 177's directive to "ascertain the feasibility of legislation authorizing zoning that encourages clustered and mixed-use development,." Barry Carpenter and Phoebe Kilby of Strategies Land Planning, Inc. presented examples of actual and conceptual cluster development in Virginia localities.

Michael L. Siegel of Public and Environmental Finance Associates, addressed a number of the issues raised in SJR 177 with a particular focus on the fiscal implications of differing forms of growth and their relation to state funding programs. Part of his focus was also on item (i) of the SJR 177 resolved clause calling on the committee to “determine the cost-effectiveness of co-locating new development in areas served by existing infrastructure.” He used the example of the impact of the movement of a large company to a Northern Virginia county on local and state finances, noting the particular strain that associated education costs and other infrastructure and service needs place on local finances.

Staff presented a summary of growth-related actions undertaken and briefings received during the committee’s first two years. (Attached as Appendix 4.) Staff also presented a group of carry-over bills from the 1998 Session dealing with the Water Quality Improvement Act. A subcommittee was formed to review the issues presented by those bills.

October 1, 1998, Richmond and the Charles City County landfill

This meeting began with a tour of the Charles City County landfill. The committee received briefings on the liner and leachate collection systems at the landfill and also visited some of the local infrastructure funded by tipping fees. The committee also visited a facility being constructed near Shirley Plantation for the off-loading of barges and examined prototype containers.

Kathy Frahm, Senior Policy Analyst from DEQ, provided an overview of the state’s solid waste regulatory program and estimates of Virginia’s landfill capacity. Randy Boyd, the Charles City County Attorney, provided an overview of the benefits solid waste has brought to the county. Tom Smith, the solid waste Division Chief for Prince William County, described steps his county has undertaken to reduce the importation of waste and raised financial concerns. John Hadfield, executive director of the Southeastern Public Service Authority, described the role of public service authorities in solid waste management in the state. Patti Jackson, of the Virginia Conservation Network, and Sterling Rives, of Virginians for Sensible Waste Management, described the environmentalist concerns and the concerns of some who reside near large landfills. Tim Hayes, on behalf of the Virginia Waste Industries Association, presented industry's perspective on waste management issues in Virginia. A solid waste subcommittee was then formed. Their remarks will be summarized later in the report.

September 25 and October 29, 1998, Richmond

The committee held joint meetings with the HJR 195 study committee examining ways to address demands for increased services and infrastructure resulting from residential growth. Details on those meetings may be found in House Document No. 65 (1999).

At the October 29 meeting the committee received subcommittee reports and endorsed recommendations made by the Water Quality Improvement Act subcommittee. Those recommendations are detailed in a later section of this report.

November 24, 1998, Richmond

In addition to receiving updates from subcommittees, the committee met to receive further testimony regarding transportation issues raised by SJR 177. SJR 177 charges the committee to “suggest transportation policies that encourage the growth of population densities sufficient to support public transportation and ride-sharing.” Noting that transportation issues are often implicated in many growth and environmental problems but that transportation options may also be part of the solution to these concerns, the subcommittee asked David R. Gehr, Commissioner of the Virginia Department of Transportation, to address issues related to transportation planning and its potential integration with and impacts upon local land use decisions. He was also asked for plans for use of ISTEPA and TEA 21 funding, particularly as they may pertain to new opportunities to meet transportation needs and environmental considerations including public transit, alternative forms of transportation such as ride sharing, bike and pedestrian paths, and the integration of transportation and land use planning processes. Concerns regarding road design standards being too inflexible to meet local planning needs were also discussed as was the transportation funding formula.

December 17, 1998, Richmond

The committee met to receive further testimony regarding transportation issues raised by SJR 177. It heard from Roy Kienitz, executive director of the Surface Transportation Policy Project, on (i) examples of other states’ efforts at coordinating transportation planning and local land use planning, (ii) opportunities presented by the new federal highway bills for enhanced planning, and (iii) suggestions on how to encourage the growth of population densities sufficient to support public transportation.

The committee also received activity reports from the solid waste and parks and land conservation subcommittees.

January 11, 1999, Richmond

The committee’s four subcommittees reported their final recommendations based on their 1998 activities and sought full committee action. Later sections of this report contain these recommendations, all of which the full committee endorsed. Delegate W. Tayloe Murphy also presented his proposed Virginia Natural Resources Policy Act at this meeting. A copy of which is attached as Appendix 5.

The Virginia Natural Resources Policy Act (HB 2273, 1999) would repeal the existing Environmental Impact Statement review process (which applies to state projects using \$100,000 or more in state funds) and replace it with a natural resource impact review process which applies to actions utilizing \$500,000 or more of state-provided funds for the acquisition of an interest in land, for the construction of any new facility, or for the improvement, expansion, support or maintenance of an existing facility. Policies against which such actions are to be judged are expressed in the act. The Virginia Natural Resources Council would be created to review the

natural resource impact reports and provide comment to the Governor. State funds are not to be dispersed for actions reviewable by the Council without the Governor's approval following his review of the Council's comments. Among the Council's other duties are those to (i) foster the coordination and implementation of natural resource policies; (ii) biennially produce a report which includes a review of the state of the Commonwealth's natural resources; (iii) assist localities, when requested, in the evaluation of actions with potential natural resource impacts; and (iv) provide staff support to meetings which are to be held at least quarterly by the Secretaries and other members of the Governor's cabinet. The cabinet-level meetings are to review programs, policies and major initiatives to (i) identify conflicts with natural resource preservation efforts and the purposes and policies set forth in the act; (ii) evaluate the natural resource benefits and burdens of each Secretariat's programs, policies and initiatives, including the expenditure of state funds; and (iii) develop planning, coordination and policy decisions to achieve the purposes and policies of the act, including measures to utilize state funding in a manner that preserves and protects the Commonwealth's natural resources.

The committee agreed that an additional year of effort was needed and unanimously recommended that the study committee be continued. Appendix 6 is the continuing resolution, HJR 719.

III. SUBCOMMITTEE REPORTS

A. WATER QUALITY IMPROVEMENT ACT SUBCOMMITTEE

During the 1998 Session of the General Assembly five bills were introduced to amend the Water Quality Improvement Act (WQIA). During the session it was agreed that all Water Quality Improvement Act bills would be carried over and reviewed by the Commission. During the Commission's first meeting of 1998 a subcommittee formed, composed of Delegates Murphy and Plum, Senator Bolling, John Daniel II and Carol Parker, to review the issues raised by the proposed amendments.

The WQIA subcommittee held two meetings, one on October 21, 1998, and the second on January 5, 1999. The October 21 agenda included a review of the issues raised by the five WQIA bills carried over during the 1998 Session. The patrons of the carry-over bills were invited to comment on their proposed amendments. The Departments of Environmental Quality (DEQ) and Conservation and Recreation (DCR) made presentations on expenditures from the Fund, the guidelines for Fund expenditures and priorities for the future.

The issues presented by the five carry-over bills and the subcommittee action on each can be found in the chart entitled "Water Quality Improvement Act 1998 Carry Over Bills" which follows in Appendix 7. The legislative product of the subcommittee's discussion was an amendment in the nature of substitute containing the WQIA amendments the subcommittee deemed appropriate. Identical substitutes were drawn to HB 814 (Murphy) and SB 49 (Bolling) for presentation to the full committee.

The full committee endorsed the substitute proposed by the WQIA subcommittee at its October 29, 1998, meeting. Senator Bolling and Delegate Murphy subsequently presented the substitute to the House Committee on Chesapeake and Its Tributaries or the Senate Committee on Agriculture, Conservation and Natural Resources, as appropriate, when those committees met to consider carry-over legislation. Both standing committees reported the substitute with the understanding that, prior to the 1999 Session, the WQIA subcommittee would hear the Secretary of Natural Resources' concerns about requiring the placement in regulations rather than in guidelines the (i) grant eligibility requirements, (ii) provisions for distribution and conditions of grants, and (iii) criteria for prioritizing grants. In his opinion, the guideline process works well now, the public procedures now in use are much better than those used originally, and the length and difficulty of making changes through the Administrative Process Act make guidelines the more effective regulatory mechanism. This meeting took place on January 5, 1999.

In response, though concern was expressed that not placing the guidelines in regulations would leave uncertain future uses of the Fund, the subcommittee endorsed an alternative guideline development public procedure process. The process is, at a minimum, to include:

1. Use of an advisory committee composed of interested parties;
2. A sixty-day public comment period on draft guidelines;
3. Written responses to all comments received; and
4. Notice of the availability of draft guidelines and final guidelines to all who request such notice.

A copy of the floor amendment in the nature of a substitute encompassing the October 21, 1998, recommendations as modified by the January 5, 1999, is attached as Appendix 8.

The Secretary and the full committee agreed that these procedures would provide for better input in guideline development. It was hoped that this process would also provide those seeking access to the Fund a higher degree of consistency and predictability in how the Fund would be used. The Secretary also expressed the view that the administration would support the floor substitute.

B. VISION SUBCOMMITTEE

The Vision subcommittee, composed of Delegate Kenneth R. Plum, Chairman, Delegate W. Tayloe Murphy, Jr., Senator Thomas K. Norment, Mr. Tim Lindstrom and Ms. Carol Parker, formed late in 1998 and did not meet separately from the full committee. Staff prepared a draft vision document which was circulated among the members for comment. The draft discussion document and accompanying committee comments were provided to the full committee at its January 11 meeting. The full committee agreed with the recommendation that the draft vision document continue to be reviewed by the subcommittee during the upcoming year of study. A version of the draft document is attached as Appendix 9.

C. PARKS AND LAND CONSERVATION SUBCOMMITTEE

1. Introduction

Early in 1998 the mission of the parks subcommittee was expanded to include an examination of open space needs. This was in part an outgrowth of the full committee findings that: (i) the park system should not be looked at in isolation but as part of a larger open space system; (ii) there is a need for long-term, stable and adequate funding sources for the park system and open space conservation programs; and (iii) the economic benefits of park and open spaces need to be better quantified and taken into consideration in long-term planning and funding decisions.¹

The subcommittee, which became known as the parks and land conservation subcommittee, met five times, including meetings at three state parks. At Douthat State Park the subcommittee heard from the State Parks Department on operation and maintenance needs, from the Natural Heritage program on its activities, and from DCR staff on the progress in master planning for the park system.

At Douthat, the subcommittee also heard from members of the steering committee of the Conservation Land Coalition, a group of 27 local, state and national organizations interested in open space, agricultural land and historic resources preservation. That group provided a statement of the benefits and needs for open spaces and indicated that there is a \$40 million annual shortfall in open space, agricultural land and historic land preservation efforts.

The Coalition identified the following problem:

"We are losing open space, natural areas, farmland and historic sites at an alarming rate. In fact, we are losing these places at a rate that could compromise Virginia's future economic development and affect the quality of life for all Virginians."

The Coalition also identified a need for action:

"The problem is clear. We must act now to protect the places that make Virginia beautiful and unique and help drive our strong economy. The cost of putting this off until tomorrow increases every day."

The Coalition also identified a solution:

"We must take action at the state level to protect natural areas, farmland and historic sites - the open space and landscapes that make Virginia a desirable place to live and to visit. Many other states have created solutions to long-term funding for conservation lands, including our neighbors North Carolina, Maryland, and Delaware. Establishing a long-term funding

¹ See House Document No. 4 (1999) for the full set of recommendations.

source for conservation lands is vital to Virginia's economy, is the investment we need to help ensure the quality of life for all Virginians, and is critical to protecting the Commonwealth's cultural and natural heritage for future generations."

Examples of other states' efforts at providing such a solution were presented as well.

Hungry Mother State park was the site of the subcommittee's second meeting. This two-day meeting examined more closely the operation and maintenance needs of the State Parks System and the Natural Heritage Program, and state efforts at agricultural land preservation. The subcommittee examined in greater depth funding options and incentives for open space protection, preservation and acquisition. A work session produced a list of potential options and additional questions.

The third meeting, held in Richmond and at Chippokes Plantation State Park, examined the ideas developed at the first two meetings and sought additional information on: (i) the needs and efforts of the Virginia Outdoors Foundation; (ii) key elements of agricultural land preservation programs from the American Farmland Trust; (iii) local farmland purchase of development rights programs; (iv) the environmental impact statement process of the Virginia Department of Transportation; (v) the needs of the State Forest System; and (vi) the abolished Council on the Environment.

The fourth and fifth meetings were work sessions held on December 14, 1998, and January 5, 1999, in Richmond. The subcommittee reported to the full committee on December 21 regarding its findings, interim recommendations and recommendations still under consideration, all summarized in the following sections.

2. Examples of Incentives and Funding Options

a. Tax Incentives.

These would assist in private land conservation efforts that are included in the \$40 million shortfall identified by the Conservation Land Coalition. The subcommittee examined draft statutory language with most of these options.

- (1) Grant income tax credit for a portion of the value of conservation easement donations.
- (2) Provide executors with discretionary authority to put land in conservation easement status.
- (3) Waive the capital gains tax on income from the sale or purchase of development rights.
- (4) Develop conservation land authorities to use bonds for issuance of low interest loans to those who wish to acquire lands for agricultural purposes (under a

preservation easement) or to acquire land for other conservation easement purposes.

b. Dedicated Funding Source Options

These options would assist not only with private sector land conservation efforts but the needs of state and local agencies working in the area. The subcommittee examined draft statutory language with a number of these options.

(1) Dedicated existing taxes or new fees on open space impacting activities:

Sales tax: Capture a portion of (i) the one-half cent of sales tax that goes to transportation, up to \$40 million per year, and (ii) the gas tax going to transportation, up to \$40 million per year.

Food tax: If elimination of food tax occurs in a phased manner, capture at least a portion of the tax during the phase-out and dedicate it to a land conservation fund.

Real estate transfer tax: Dedicate a portion of this tax to a conservation land fund.

Public right-of-way usage fee: (i) Capture a portion of this fee collected from telecommunication companies for the use of the public right-of-way as locations for their lines and dedicate this money to a land conservation fund and (ii) develop a fee for cell towers to be used for open space preservation.

Tax increment financing mechanisms: Clarify in statute that this mechanism may be used for the purchase of development rights programs.

(2) General fund appropriations: Create a conservation land fund with a portion of the existing surplus this year in anticipation of having dedicated funding sources in the future.

(3) General obligation bonds: Use proceeds to create funding for a land conservation fund. An advisory referendum on this or other funding mechanisms may be useful.

(4) Tobacco settlement funds: Investigate the use of tobacco settlement funds for agricultural land preservation programs.

(5) Solid waste tip fees: Use of a portion of the solid waste tip fees found in the Deeds/Hanger solid waste proposal² for open space and agricultural land preservation

(6) Recreational facilities authorities: Clarify that the powers of recreational facilities authorities include those related to conservation easements and open space.

² See introduced versions of HB 1748 (1999) and SB 865 (1999).

3. Open Space Preservation Incentives and Funding Recommendations

While all of the options discussed had some merit, the subcommittee recommended that the following steps be taken during the 1999 Session of the General Assembly to provide (i) substantial incentives for private land conservation efforts; (ii) additional mechanisms for locality funding of open space activities; and (iii) funding for immediate needs for land preservation and acquisition. As mentioned earlier, the full committee concurred in all of these recommendations.

a. Tax Incentives

(1) Provide an income tax credit for a portion of value of conservation easement donations. Proposed legislation provides an income tax credit for individuals and corporations donating land for preservation purposes. The tax credit is 50 percent of the fair market value of the land interest transferred, not to exceed \$100,000. In addition, the credit may only be used to offset taxes owed, but it may be carried forward for a period of five years. North Carolina has used this mechanism successfully and a number of other states are in the process of establishing similar tax credits. The value of the land conserved under this program would far outweigh any lost tax revenue. North Carolina estimates a 12:1 ratio. See Appendix 10.

(2) Provide executors with discretionary authority to put land in conservation easement status. Proposed legislation authorizes fiduciaries to donate conservation easements on land of their decedents and settlers in order to obtain benefit of an estate tax exclusion allowed under the Internal Revenue Code. See Appendix 11.

(3) Waive capital gains tax on income for the sale or purchase of development rights. Proposed legislation excludes from the income of individuals and corporations the gain on the sale of land or an easement which dedicates the land or easement to an open-space use. This will be particularly helpful to the development and promotion of agricultural land preservation programs. See Appendix 12.

b. Dedicated Funding Source Options

(1) Clarify in the code that tax increment financing may be used for open space. Proposed legislation provides that real estate devoted to open-space use may be financed as part of tax increment financing. See Appendix 13.

(2) Clarify that the powers of recreational facilities authorities include those related to conservation easements and open space. Proposed legislation includes land conservation projects among the projects that may be undertaken by such authorities. See Appendix 14.

(3) Appropriate \$40 million to the Virginia Conservation and Recreation Foundation (Foundation) and (i) change the name to the Virginia Land Conservation Foundation to better reflect its purpose; (ii) amend the purposes of the Foundation to specifically include farmland

and forest preservation; (iii) allow the Foundation to provide matching grants to local government for local farmland and open space programs. A suggested distribution of these funds is 25 percent to each of the following: natural areas; open space programs; agricultural and forest land preservation; and matching grants to localities. In addition, the solid waste tip fees dedicated to land conservation in the Deeds/Hanger proposal should be directed to the Foundation rather than to the Fund established in that draft.³

Proposed legislation amends the Virginia Conservation and Recreation Foundation in conformance with this recommendation. See Appendix 16. Though the Foundation has never been funded since its creation in 1992, it is currently the only vehicle created by the General Assembly that provides an umbrella for a comprehensive analysis, and expenditure of funds for natural areas, agricultural and forestal lands, historic lands, park lands and open space. It is overseen by the Secretary of Natural Resources and therefore has the ability to work across agencies for land conservation needs. This, combined with an appointed Foundation board membership, should allow for cooperation with local government and private, nonprofit conservation organizations as well.

Although a general fund appropriation of \$40 million in 1999 will begin to address the numerous and urgent land conservation needs of the Commonwealth, a dedicated and reliable source of funding is still needed for the long term in Virginia. Much of this need is outlined in the case statement provided by the Land Conservation Coalition. Attached as Appendix 15 is a more refined list of needs arranged in the following categories: 1. Natural Areas, 2. State Parks, 3. State Forests, 4. Historic Resources, and 5. Agricultural Lands.

4. Funding Related To Specific Agencies and Programs

a. The Natural Heritage Program

The first appropriation for natural area acquisition under Virginia's Natural Area program was in 1988 - providing \$1.5 million which was matched by \$500,000 from The Nature Conservancy. The 1992 bond referendum made \$11.5 million available for the natural area system. DCR's Natural Heritage Program has used these funds to leverage additional federal grants and private funds to grow the Natural Area Preserve System from zero areas in 1988 to the current 25, encompassing 13,600 acres. The Natural Area Preserve System is expected to reach 25,000 acres by the close of 1999.

In addition to protecting valuable natural attributes, the Natural Heritage staff has done an impressive job by secured an additional 72 cents in nongeneral fund dollars for every general fund dollar appropriated for natural area acquisition and program implementation. Unfortunately, insufficient funds exist to manage this system.

³ A copy of SB 1304 as passed the 1999 Session of the General Assembly is attached as Appendix 16.

Studies by the Department of Conservation and Recreation and The Nature Conservancy find that the following funding is needed to adequately conserve and manage the Commonwealth's natural areas:

▶ \$600,000 for operational management including site security and public visitation, construction and maintenance of roads, parking areas, signs and trails. This includes five FTEs to act as regional site manager/law-enforcement staff.

▶ \$200,000 for enhanced conservation of lands. This includes two FTEs for private and public lands natural area registries and dedications and two FTEs for ecological management of natural areas. Ecological management includes such things as prescribed burning, invasive species control, endangered species monitoring and recovery, site management planning and research, and research grants.

The Commonwealth has acquired critically important natural areas under its Natural Area Preserves Act and will continue to do so in the immediate future. The Commonwealth, however, has not provided adequate funding for ecological management or for operational management such as site security and road, parking area, trail and structure construction and maintenance.

Recommendation on the Natural Heritage Program:

General Fund appropriations for this program should be increased by \$800,000, which would allow for nine new FTEs for site operational management and law enforcement, ecological management, and enhanced conservation of public and private natural areas.

b. The Virginia Outdoors Foundation

The Virginia Outdoors Foundation was created in 1966 and has a mission under § 10.1-1800 to "... promote the preservation of open-space lands and to encourage private gifts of money, securities, land or other property to preserve the natural, scenic, historic, scientific, open-space and recreational areas of the Commonwealth." Its main programs involve the administration and monitoring of conservation easements created voluntarily by private property owners. VOF has approximately 115,000 acres under easement in 50 jurisdictions around the state, permanently keeping land in farming, forestry and open space.

VOF is also involved in what it calls "special projects" or "owned property management" which includes such things as Aldie Mill in Loudoun County. Management of these properties and projects is through partnerships with private, nonprofit organizations.

VOF also administers the "Open Space Lands Preservation Trust Fund" established in 1996, which provides a mechanism for reimbursement of legal, appraisal and other costs of

easement donations, as well as purchase of all or part of the easement value. This Fund is capitalized at \$225,000, of which \$103,643 has been committed.

While VOF is recognized as a national leader in the conservation easement field, it is under-staffed and under-funded, deficiencies magnified by an increasing work load. For example, the average over the past five years has been 5,822 acres per year from 30-40 proposals for conservation easements. It is anticipated that 17,000 acres will be handled in 1998 alone based on a more than doubling to 98 projects (88 new easements and 10 additions to existing easements).

The VOF is also falling behind on monitoring existing easements. It is averaging once per six years whereas a national standard recommended by Land Trust Alliance is once per year. This needs to be improved so that enforcement actions can be avoided and open space and agricultural lands can be preserved as intended.

The state appropriation of \$200,000 covers about half of VOF's operating expenses.

Recommendation for the Virginia Outdoors Foundation:

Funds for VOF should be increased by \$180,000 to provide full state support for the VOF conservation easement program and monitoring of easements. The "special projects" would continue with the current private donations.

c. The State Park System

The State Parks System was a major focus of the subcommittee's 1997 efforts. Even though important contributions were made to that system in the 1998 Session pursuant to the committee's recommendations, numerous needs still require remedy. Of particular concern are staffing needs and operation and maintenance needs.

One of the issues raised in 1997 was the need for increased staffing. A portion of the full committee recommendation on staffing was funded by the 1998 Session. This subcommittee recommends that the remaining positions be funded as well.

Funding for operation and maintenance was also of central import to this committee's parks recommendations. Preventive maintenance will be critical in preserving our investment and assuring a return from our parks system. This is particularly true of existing parks but is also true for the new facilities and lands coming on line through the bond referendum. Therefore the subcommittee recommends an increase in preventive maintenance funding for the parks system.

Adequate funding for the day-to-day operations of parks is falling short as well. Resources for staff and maintenance are being diverted for such basic needs as electricity and water. Funding is recommended in this area as well.

During site visits the subcommittee has seen critical maintenance problems that have not been addressed for years. In 1998 the subcommittee reviewed a list of over 300 maintenance reserve projects for the existing park system. The top 65 priority projects total nearly \$20 million. It is roughly estimated that funding up to the top 200 projects would reach \$39 million. These are needs that are not currently funded and represent a decline in the quality of our parks. This is not the way we should care for our investment in these valuable assets to our economy and our outdoors opportunities. The subcommittee believes that it is appropriate to allocate general fund moneys for these projects. The subcommittee requested an analysis from DCR on what a reasonable annual figure would be and identifiable projects which may be addressed in each year. The figure turned out to be \$7 million per year.

Recommendations for the State Parks System:

The following recommendations are made in reference to the chart entitled "State Parks Future Budget Needs" attached as Appendix 17.

Recommendation 1: As shown under "Future Annual Needs," \$4,681,679 should be provided to assist in meeting annual staffing, operation and preventive maintenance needs.

Recommendation 2: As shown under "One-Time Needs," an annual appropriation of \$7 million should be made to address these long-standing maintenance problems.

d. The Department of Forestry

The Department of Forestry owns or manages 15 parcels of forest land totaling approximately 51,000 acres. This State Forest System is located in several geographic regions of the Commonwealth, though 95 percent of the land is in the south central part of Virginia. Since the first acquisition of a parcel for the Forest System in 1919, the forests have been managed for multiple benefits including forest management demonstrations, passive recreations, wildlife, fishing and long-term research. The forests are self-sustaining; they are managed at no cost to the taxpayer and return 25 percent of earned revenues to counties where located.

The fact that forest lands across the state are so diverse means that research is needed in areas with different climates, soils and species so that results can be realistically transferred to owners' particular forest conditions. Needs therefore exist for additional state forest land in more areas of the Commonwealth.

Fragmentation and inholdings of forest lands are also problems. Opportunities for acquiring many parcels that would assist in meeting the needs just identified have been lost because of no funding sources for such acquisitions. The addition of these types of properties would improve the administration of the state forests and would add to the diversity of the system.

Recommendation on the State Forest System:

Funding should be made available to the Forestry Department for the acquisition of inholdings and new forest areas. The subcommittee recommendation identified as 3b(3) above would allow funds to be used for forest system acquisition.

5. Continuing Efforts and Future Study

While the subcommittee believes it has made significant recommendations for incentives and funding to promote land conservation needs, it recommends that its efforts continue for an additional year. If the full Moss Commission on the Future of Virginia's Environment does not continue, a new study led by the members of the parks and land conservation subcommittee should be formed to retain momentum and knowledge on open space issues so that an adequate and secure funding source for all aspects of open space preservation may be found.

Full committee action: It was agreed that the full study on the future of Virginia's environment should continue. The continuing resolution is attached as Appendix 6.

D. SOLID WASTE SUBCOMMITTEE

One of the most publicized issues being examined under the study was solid waste management. Solid waste management was identified by the committee as important to its efforts in 1996. Public hearings that year showed concerns over increasing volumes of waste disposal and the potential for landfills to leak contaminants. The economic benefits of waste disposal to local governments and the desire of citizens to promote recycling and waste reduction were also central topics. The 1997 Session saw a requirement placed on DEQ to analyze the waste stream in Virginia. That documented the increase in waste disposal in Virginia, its sources, the types of waste and the methods of disposal.

The full committee meeting held on October 1, 1998, focused on solid waste issues. The meeting began with tours of the Charles City County Landfill barge off-loading facility being constructed in the county on the James River. The committee received briefings on the liner and leachate collection systems at the landfill and also visited some of the local infrastructure funded by tipping fees. It also examined a prototype container being developed for barge transport of solid waste.

Upon returning to Richmond the committee received a variety of briefings. Kathy Frahm, senior policy analyst with the Department of Environmental Quality, provided an overview of how Virginia regulates solid waste. She also reviewed the report required by § 10.1-1413.1 on the sources and amounts of wastes disposed of in Virginia. Information on how much landfill capacity exists in Virginia was also provided.

Randy Boyd, county attorney for Charles City County, noted that Charles City County has received a fair amount of revenue from the importation of waste. The county has lowered its personal property tax rate and built a school system (not just a school).

Tom Smith, solid waste manager for Prince William County, described his county's somewhat different experience with solid waste. He described steps his county has undertaken to reduce the importation of waste and raised financial concerns

John Hadfield, executive director of Southeastern Public Service Authority, outlined the role of authorities in providing solid waste management services and the variety of ways they provide them. For example, Southeastern Public Service Authority (SEPSA) provides most of the services itself and owns and operates a landfill and an incinerator. At the other end of the spectrum are authorities such as Central Virginia Waste Management Authority, which acts as a contracting agent with the private sector for member localities. Information comparing service authorities follows as Appendix 17a.

Patti Jackson, on behalf of the Virginia Conservation Network identified a number of steps as important for the environmental community, including the following suggestions: (i) DEQ should evaluate the cumulative impact of solid waste on Virginia's transportation infrastructure and environment; (ii) there should be a strong commitment to assuring that low income and minority communities are not disproportionately impacted by waste; and (iii) DEQ should be given the resources for adequate inspection programs and ground water quality monitoring. In addition, Jackson urged the General Assembly to (i) identify and provide funding for the clean-up of abandoned facilities that includes contributions from the waste industry; (ii) resist weakening of the Virginia Waste Management Act; (iii) provide an industry-funded mechanism whereby localities could hire their own experts to determine the suitability of sites for landfills rather than having to rely on waste industry findings; (iv) examine the issue of the transport of wastes on the waters of the Commonwealth; and (v) encourage federal legislation dealing with flow control and state authority to regulate the importation of out-of-state wastes.

Sterling Rives spoke for Virginians for Sensible Waste Management, a citizen-based group from communities around landfills. He noted opposition to the James River off-loading site and concerns of some of those living in communities with large landfills.

Timothy Hayes spoke on behalf of the Waste Industries Association. He reviewed the history of environmental regulation in Virginia noting that it was not that long ago that landfill permits were a single paged document. Today they are many inches thick. Areas identified as those that the industry may be able to help included: (i) maintaining disposal capacity for waste generated by Virginia localities; (ii) the clean-up and proper closure of old pre-regulatory program and abandoned landfills; (iii) caring for landfills after the already required 30-year post-closure requirements expire; and (iv) loss of open space.

At the conclusion of the meeting a subcommittee was formed composed of Senators Bolling, Norment and Hanger and Delegates Deeds and Murphy. On October 30, 1998, the subcommittee met to receive additional information on landfill capacity, legislation proposed in

Pennsylvania and at the federal level and on the status of older landfills. The committee also reviewed a legislative proposal developed by Senator Bolling and one developed by Delegate Deeds and Senator Hanger.

A public hearing was held by the solid waste subcommittee on November 23, 1998, drawing approximately 400 people, 90 of whom spoke, magnifying the comments heard in 1996. Comments were approximately evenly split between those promoting the benefits of solid waste disposal to their locality and those with concerns over the potential for landfill failure, contamination and transportation hazards.

In addition to receiving public testimony, the subcommittee received briefings from staff, the Department of Environmental Quality, representatives of the waste industry, environmental groups, community groups and local governments.

The subcommittee met again on December 3, 1998, and January 5, 1999, to examine a number of ways to resolve the conflicts between concerns and benefits associated with solid waste. DEQ provided information regarding the closure cost for what are commonly referred to as the HB 1205 landfills. These are landfills that HB 1205, passed during the 1993 Session, allowed to continue to operate even though they did not have liner and leachate collection systems meeting the most modern regulations. It was estimated that it would cost over \$100 million to close the facilities.

The draft legislative proposals contained one or more of the following provisions:

- Closure of landfills not meeting the most up-to-date landfill liner and leachate standards.
- Creation of trust funds for environmental improvements including landfill clean-up and closure, abandoned waste site clean-up, promotion of recycling and preservation of parks and open spaces. Funding sources under consideration were per-ton fees and the general fund.
- New regulatory programs for waste transport by truck and rail.
- Prohibitions on transport of wastes on Virginia's waters.
- Disposal guarantees for waste generated in state.
- Requirements for agreements between landfill owners and operators and host localities.
- Expanding and strengthening the required DEQ review of landfill permit applications and site suitability.
- Caps or limits on the total amount of wastes that may be disposed in Virginia and at individual landfills.
- Transporter certification that waste is of a type suitable for the selected disposal facility.
- A three-year moratorium on permit issuance for new landfills or expansions and a study by DEQ of solid waste management needs and options during that period, and

- Increased requirements for landfill post-closure monitoring and financial assurance when necessary to protect human health or the environment.

Subcommittee members Deeds and Hanger also proposed a budget amendment to add two additional solid waste inspectors per DEQ region.

A spreadsheet of the options considered and the subcommittees action is attached as Appendix 18. The full committee endorsed the legislative recommendations of the subcommittee.⁴ In addition the subcommittee recommended a memorializing resolution calling on Congress to enact legislation that gives state and local governments additional authority to regulate, limit or prohibit the importation of municipal solid waste from other states. That resolution (SJR 327, 1999) is attached as Appendix 19.

IV. CONCLUSION

The full committee met on January 11, 1999, to consider subcommittee recommendations. The full committee's actions are noted in each of the above sections dealing with subcommittee recommendations. The final action at the January 11 meeting was to recommend that the committee continue its efforts.

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⁴ HB 1748 and SB 865 as introduced represent the legislative recommendation of the subcommittee.

APPENDICES

Appendix Number 1

HOUSE JOINT RESOLUTION NO. 136

Continuing the Joint Subcommittee Studying the Future of Virginia's Environment.

Agreed to by the House of Delegates, February 5, 1998
Agreed to by the Senate, March 10, 1998

WHEREAS, the 1996 Session of the General Assembly passed House Joint Resolution No. 221 creating a study to examine the history of environmental and natural resources programs and funding for such programs in the Commonwealth and to develop a vision and plan for the future protection, enhancement, and utilization of Virginia's natural resources; and

WHEREAS, the study committee and its subcommittee on parks has held eighteen meetings, including five public hearings in locations throughout the Commonwealth; and

WHEREAS, the history of natural resources and environmental protection and funding for such programs in the Commonwealth has been reviewed; and

WHEREAS, state agencies involved in environmental protection and resources management, together with local, state, and national experts, and hundreds of citizens, have provided testimony and volumes of written comments on the topics under consideration; and

WHEREAS, the study committee developed and supported the concepts that became the Virginia Water Quality Improvement Act of 1997, has developed numerous policy and legislative recommendations to improve the Commonwealth's park system, has supported a study of innovative means for regulating pollution discharges, and has recommended legislation relating to conservation easements as interim steps toward fulfilling its charge; and

WHEREAS, due to time constraints and the volume of issues and options under consideration, the committee has been unable to complete its tasks to the degree it would like and agrees that it should meet for an additional year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying the Future of Virginia's Environment be continued. The joint subcommittee shall be composed of those members appointed under HJR No. 221 (1996).


In conducting its study, the joint subcommittee shall continue the development of a vision and plan for the future of Virginia's environment as called for in HJR No. 221 (1996) and shall include in its deliberations the identification of stable funding sources for the state park system.

The direct costs of this study shall not exceed \$10,250.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1999 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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Appendix Number 2

SENATE JOINT RESOLUTION NO. 177

Directing the Commission on the Future of the Environment to study smart growth area initiatives for the Commonwealth.

Agreed to by the Senate, March 13, 1998
Agreed to by the House of Delegates, March 12, 1998

WHEREAS, the Commonwealth seeks to provide a high quality of life for all of its citizens by encouraging economic development while preserving valued environmental resources; and

WHEREAS, the Commonwealth receives the greatest benefits when economic development occurs in a manner that protects existing neighborhoods and communities; and

WHEREAS, the Commonwealth wishes to provide the necessary infrastructure and employment incentives to promote economic development; and

WHEREAS, the costs to the Commonwealth of providing adequate roads, utilities, and other types of infrastructure are exceeding currently foreseeable revenues; and

WHEREAS, much of the development in the Commonwealth is occurring at the fringes of urbanized areas; and

WHEREAS, land-consumptive development that extends beyond the edge of service and employment areas, or which requires citizens to travel by car between places they work, shop, and live, has been characterized as suburban sprawl; and

WHEREAS, suburban sprawl contributes to a lower quality of life, the declining health of central cities, increasing costs for public services, and environmental degradation; and

WHEREAS, Maryland, through its Smart Growth Areas Act, has adopted a policy of fostering economic development and improving the quality of life by directing state expenditures on economic growth and development to existing communities and other locally designated areas; and

WHEREAS, by avoiding expenditures for infrastructure for sprawl development, Maryland's Smart Growth Areas Act seeks to encourage increased density of development in areas where development has occurred; and

WHEREAS, Maryland's Smart Growth Areas Act or other approaches may provide the Commonwealth with the means to direct its investments in infrastructure in a manner that eliminates disincentives for rational development; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Commission on the Future of the Environment be directed to study smart growth area initiatives for the Commonwealth. In its study, the Commission shall (i) determine the cost-effectiveness of colocating new development in areas served by existing infrastructure; (ii) ascertain the feasibility of legislation authorizing zoning that encourages clustered and mixed-use development; (iii) recommend policies that promote in-fill development and upgraded infrastructure in established communities; (iv) suggest transportation policies that encourage the growth of population densities sufficient to support public transportation and ride sharing; and (v) develop policies which encourage the revitalization of older communities within the Commonwealth.

The Commission shall include its findings and recommendations on smart growth initiatives for the Commonwealth in its report to the Governor and the 1999 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Appendix Number 3

HOUSE JOINT RESOLUTION NO. 195

Establishing a joint subcommittee to study land development patterns and ways to address demands for increased services and infrastructure resulting from residential growth.

Agreed to by the House of Delegates, March 13, 1998

Agreed to by the Senate, March 13, 1998

WHEREAS, many areas of the Commonwealth have experienced rapid growth in recent years and can be expected to continue such growth; and

WHEREAS, this growth has resulted in significant impacts on development patterns; and

WHEREAS, much of the development in the Commonwealth is occurring at the fringes of urbanized areas and is having a significant impact on land development patterns; and

WHEREAS, the development of residentially zoned properties will increase dramatically the need for capital facilities to provide public services for their residents; and

WHEREAS, existing state enabling legislation does not provide sufficient tools to require new development to fund the resulting infrastructure and service requirements; and

WHEREAS, the utilization of funding mechanisms currently available to localities, such as proffer zoning, to finance the cost of such infrastructure has often proven inadequate or undesirable to fund the needs that rapid growth can create; and

WHEREAS, Article 4 (§58.1-3229 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia authorizes local governments to establish land use taxation programs providing for the special assessment and deferral of real estate taxes on real estate devoted to agricultural, horticultural, forest, or open-space uses; and

WHEREAS, land use taxation programs tend to preserve existing uses of property by reducing the likelihood that increased real estate tax assessments will induce owners to develop their property; and

WHEREAS, Section 2 of Article X of the Virginia Constitution authorizes the General Assembly to define and classify real estate devoted to agricultural, horticultural, forest, or open-space uses, and to authorize any locality to allow deferral of, or relief from, portions of taxes otherwise payable on such real estate, subject to certain conditions and restrictions; and

WHEREAS, localities are not authorized to establish a class of property for land use taxation purposes consisting of underdeveloped or unimproved property zoned for residential use; and

WHEREAS, incentives for deferring the development of property zoned for residential use, including land use taxation programs, may assist localities to cope with demands for increased services and infrastructure resulting from growth; and

WHEREAS, impact fees may offer an alternative to proffer zoning which is fairer and more equitable and which will inject greater certainty into the development process; and

WHEREAS, professional arbitration offers another method in resolving the problems arising from economic development and growth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study land development patterns and ways to address demands for increased services and infrastructure resulting from residential growth. In conducting its study, the joint subcommittee shall examine the cost and impact of land development patterns and identify approaches by which localities

can address the increased demands for infrastructure and services, including the imposition of impact fees, the use of professional arbitrators, and the addition of a class of property for land use taxation purposes consisting of underdeveloped or unimproved property zoned for residential use, provided that no changes are made to the existing agricultural and forestal land use taxation program that would diminish present benefits. The joint subcommittee shall communicate with the Commission on the Future of the Environment regarding any overlapping issues in order to minimize duplication of effort.


The joint subcommittee shall be composed of 11 members to be appointed as follows: 6 members of the House of Delegates to be appointed by the Speaker of the House in accordance with Rule 16 of the House Rules; and 5 members of the Senate to be appointed by the Senate Committee on Privileges and Elections.

The direct costs of this study shall not exceed \$8,250.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1999 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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COMMONWEALTH OF VIRGINIA



Appendix Number 4

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MEMORANDUM

TO: HJR 136 (The Future of Virginia's Environment) members

FROM: Shannon R. Varner, *Senior Attorney*

DATE: July 30, 1998

RE: HJR 221 growth related activities

This memorandum provides a summary of much of this study committee's growth related activities during 1996 and 1997. I have divided the information into five sections as follows:

- I. Public testimony
- II. "Smart Growth" briefings
- III. Sustainable community development briefings
- IV. Committee policy recommendations from last year
- V. Water Quality Improvement Act

I. Public Testimony

At its first meeting in 1996, this committee identified seven issues as central to its efforts. Public hearings were then held throughout the state at which concerns related to growth and development were among the most prevalent and were expressed in relation to most of the seven issues. The following summarizes citizen comments in the three identified issues of "land use and development" and "open space and recreation needs" and "the importance and needs of resources-based industries."

Public Testimony Topic: Land Use and Development

Two examples of the public testimony:

"We are rapidly damaging and losing the natural assets that not only provide habitat for wildlife, but that provide us, as citizens, with a sense of place We

talk about 'loss of community' and the lack of a sense of place, yet we continue to grow and develop without planning, heedless of the built environment's impact on the natural environment."

"While localities must be engaged in development questions, regional cooperation is critical to success."

Concerns over the impact of land use and development were heard at all five of the public hearings and were most pronounced in the Northern Virginia and Norfolk areas. These areas have experienced tremendous growth and, in some cases, growth that some believe occurred in an improper manner or improper place. For urban areas, citizens urged the promotion of strategies to increase infill development rather than the expansion of cities and suburbs into open spaces.

In all areas of the Commonwealth, citizens promoted coordinated development that would minimize the loss of open space and impacts on water quality. The preservation of open space was of particular importance in areas that rely on open spaces for tourist and recreational contributions to the local economy.

Transportation issues were also raised in the context of land use and development. Many equated roads with fostering sprawl development and urged planning of transportation systems so that development does not occur where it will have a negative impact on the environment and open spaces. They also urged that roads be developed in a manner sensitive to the area through which they pass. Mass transit was also promoted to reduce auto use and air pollution and to foster growth around transit systems rather than along extensive highway systems.

Concern was expressed that local governments do not have sufficient tools at their disposal to control growth and that they do not always use the ones they do have to protect water quality. In addition, many local governments may not have the needed expertise or access to resources necessary to conduct long-term planning. Citizens urged that planning, land use, and development tools that are now lacking be provided to local governments.

In urging the committee to action in this area, one citizen quoted from the report Population and Growth and Development in the Chesapeake Bay Watershed in the Year 2020 as follows:

"Decade after decade, committees, panels, commissions, and vocal individuals have catalogued problems and offered prescriptions for their resolution. The recommendations made here could easily be sidetracked 'for more study.' It is our sense, however, that this moment in the history of the region demands immediate action. We sense an important difference in the political climate from past decades. .

. . . Public officials, politicians, developers, and private citizens who worked on this panel, who attended and participated in the panel's meetings, and who came to the public meetings that were held in each jurisdiction, are all strongly behind effective land use management that will restore the Bay. All are now awaiting the leadership that will produce effective, timely actions."

He then added that the 2020 report was issued in 1988 and that citizens are "still awaiting the leadership that will produce effective, timely actions" and expressed hope that this committee would take appropriate actions.

Public Testimony Topic: Open Space and Recreational Needs

Two examples of the public testimony:

"The state's mission is to preserve and conserve parklands and natural resources; I fear this has been forgotten."

"I cannot think of a more important environmental issue facing us today than protecting our rapidly diminishing open lands and natural habitats. . . . We cannot enjoy outdoor activities such as hunting, fishing, boating, hiking and bird-watching if we fail today to continue setting aside park land and wildlife refuges."

Open space and recreational opportunities are very popular among Virginia's citizens. This popularity is based on aesthetic values, the increasing desire of individuals for outdoor recreational experiences, environmental benefits, and the economic value tourism and recreation bring to areas.

Citizens expressed concern that suburbanization is fragmenting Virginia's open space, reducing options for the acquisition of public recreation areas and destroying wildlife habitats and migratory corridors. They urged additional funding mechanisms to acquire open spaces now, rather than later, for current citizens and future generations.

Citizens believe the Commonwealth has a critical role to play in investing in new parks and preserving open spaces. Some expressed concern that the state is not doing enough to protect and maintain parks and open spaces.

Public Testimony Topic: The Importance and Needs of Resources-Based Industries.

Public testimony example:

"Resource-based industries such as coal mining, timber harvesting and agriculture are important for the sustained economic vitality of the Commonwealth."

However, newer 'industries,' particularly tourism, are also dependent on natural resources, not from the point of resource extraction but for other benefits. These benefits include clean water for recreation, clear viewsheds for scenic drives and healthy ecosystems for productive fisheries and wildlife populations."

Citizens took a broad view of resource-based industries, including extractive and renewable industries, as well as industries that exist because of natural resources. Among the renewable industries mentioned were forestry, agriculture, and fisheries (both commercial and recreational and natural and cultured). Closely related are industries such as tourism and recreation that depend on the existence of open spaces, natural areas and healthy natural resources.

Citizens discussed management of the utilized resource itself (for example, oyster stocks), management of the extraction practice, and management of those things that impact the resource. The comments expressed a collective view that safeguards must be in place to assure that water quality, air quality, development pressures and other factors do not impair the resource. On this last point, a number emphasized that resource-based industries, such as the capture and culture of fish and oysters, are dependent on a clean environment. A clean environment aids in assuring that the product is safe to consume and that the resource can survive, thrive, and be harvested at a beneficial rate. Government, it was urged, should provide managers with necessary tools, leadership, support, and guidance.

Speakers also agreed that the state should take a broad view of the interactions between resource-based industries, other industries, and growth rather than relying on an industry-by-industry analysis. For example, mining is critically important to certain areas of the state and, while one person expressed the view that there is pressure to relax environmental regulation when jobs are at stake, others expressed the view that without adequate protection other industries that may sustain an area economically over the long term may be unable to survive.

In addition, many saw sustained and sustainable resource-based industries as vitally important to their area and the Commonwealth. In their view, these types of industries can replace declining industries, are relatively clean, and are cost-effective economic development for their communities. In fact, many cited them as the preferred economic development tool for their areas.

At the Annandale public hearing representatives of the Loudoun Piedmont Environmental Council spoke about "rural economies" as resource-based industries.. Three segments of this "productive, sustainable, and preferred industry" were analyzed for their contribution to the Loudoun County economy. Each relies in some way on preservation of open space, natural and historic features, and agricultural lands, all of which, in that county, are under increasing strain.

According to their study:

- ▶ The Loudoun horse industry generates \$89 million annually in purchases.
- ▶ Travel and tourist industries generate \$244 million annually
- ▶ Agriculture generates \$46 million in sales each year.

The study also noted that the burden of these “rural industries” on county tax revenue was less than most other forms of development. For example, agriculture requires \$0.50 of public expenses for each \$1.00 of tax revenue it generates, compared to the \$1.55 in public expense required by the residential sector for each \$1.00 of tax revenue it generates.

The organization stressed preserving the open space and rural character of the western part of the county as the chief way to perpetuate a lasting and adaptive rural economy there. To achieve this, the group urged a number of additions and changes to existing tools for land use and community design, including (i) a new public capability to purchase development rights, (ii) a private trust to do the same, (iii) development and construction design criteria more respectful of natural resources, (iv) improved cluster development regulations, and (v) continuation and improvement of use value taxation.

II. Smart Growth Briefings, September 9, 1997

This committee received presentations from the Maryland Office of Planning and the Environmental Law Institute on “smart growth” on September 9, 1997.

Maryland’s Initiatives

Rupert Friday of the Maryland Office of Planning reviewed that state’s recently enacted smart growth initiatives. Maryland’s efforts focused on directing growth toward areas with existing infrastructure and targeting state funds to those areas. The initiative is really a package of legislative and administrative efforts called the “Smart Growth and Neighborhood Conservation Initiatives.” The package includes five programs: (i) Priority Funding Areas (also called smart growth areas); (ii) Brownfields Program; (iii) Rural Legacy Program; (iv) Job Creation Tax Credit; and (v) a Live Near Your Work Program. The following describes each program.

Priority Funding Areas (AKA “Smart Growth Areas”): Focuses state funding into “priority funding areas” to support “efficient and economical growth” by encouraging the use of existing or planned for infrastructure, rather than growth

that fosters sprawl, loss of fields and farms and loss of neighborhoods. Examples of areas that would qualify include: every municipality, areas inside the Washington Beltway; areas already designated as enterprise zones, neighborhood revitalization areas and existing industrial land. Localities are also given a role in designating areas where industrial and other economic development is desired. In addition, counties may designate areas planned for new residential communities which will be served by water and sewer and meet density standards.

Brownfields program: This program provides legal, regulatory and financial incentives to encourage redevelopment of underutilized industrial and commercial sites. Often "brownfields" are actually "clean" sites or are sites that have been cleaned to levels suitable for commercial development. However, because of liability concerns, developers often prefer to locate in "greenfields" - farms and open spaces - where there is not needed infrastructure such as roads, water and sewer. Moving to greenfields contributes to the loss of farms and open spaces, increases the amount of taxpayer dollars spent on funding new infrastructure and impedes neighborhood revitalization efforts.

Rural Legacy Program: This program redirects existing state funds into a focused and dedicated land preservation program specifically designed to limit the adverse impacts of sprawl on agricultural lands and natural resources. The program is to reallocate state funds to purchase conservation easements for large contiguous tracts of agricultural, forest and natural areas. A significant amount of funding from a variety of sources, on the order of \$100 million, will be directed to the program between 1998 and 2002.

Job Creation Tax Credit: Prior to its 1977 legislative session Maryland had a program that provided income tax credits to companies in certain sectors that create 60 or more full-time jobs or in the case of jobs paying an average of \$29,000 or more, 30 or more jobs. This proposal reduced the job creation threshold when businesses locate in "smart growth" areas to 25.

Live Near Your Work: This program is to encourages employees to live near their workplace by providing cash grants to home buyers moving into targeted neighborhoods. The source of the grant would be threefold: the state, the locality and the employer. The idea is not only to revitalize certain neighborhoods but to reduce car travel miles and the need for new roads.

ELI on Activities in Other States

Jim McElfish of the Environmental Law Institute (ELI) described smart growth from a national perspective, giving examples from other states. Mr. McElfish noted the common themes of successful growth strategies include

consistency, consultation, and concurrency. The ELI report "Blueprint for Sustainable Development of Virginia" defines the three terms as follows:

"Consistency" is the requirement that comprehensive plans - prepared at appropriate state levels - be consistent with one another and with the Commonwealth's policies. This process involves the Commonwealth's review and recognition of localities comprehensive plans and zoning measures to ensure that reasonable growth and sustainable use of resources are achieved.

"Consultation" ensures that governmental agencies and political subdivisions involve one another in avoiding undesirable or costly impacts. The effects of land-use decisions by Virginia's localities do not stop at their political boundaries but affect water supplies, air quality, transportation, energy, and development opportunities of adjacent jurisdictions.

"Concurrency" means "pay as you grow." Virginia's public facilities and services must be provided concurrently with the impact of development, not deferred into the future.

III. Sustainable Community Development

Richmond, June 17, 1997

William McDonough, Dean of the University of Virginia School of Architecture, spoke on "The Next Industrial Revolution," emphasizing planning, design, and pollution prevention as ways to protect the environment.

Bill Weeks, Vice President of The Nature Conservancy, and Richard Collins, Director of the UVA Institute for Environmental Negotiations, discussed ways to foster sustainable community development, providing examples from Virginia and other states.

Richmond, December 4, 1997

The committee received a briefing from Mr. Thomas E. Harris, Northhampton County Administrator, on the nationally recognized efforts and accomplishments that the county has made in fostering sustainable community development. Mr. Thomas also had numerous recommendations for how the state could help foster such activities in other areas of the commonwealth. A copy of his recommendations are attached.

IV. 1997 Committee Recommendations Developed by the Parks Subcommittee

Among the many policy recommendations adopted by this committee at its January 12, 1998, meeting are two that highlight the economic and environmental importance of preserving open spaces. The preservation of such benefits has implications for how and where growth occurs.

The following was made as a policy recommendation for consideration by the current and future administrations and the General Assembly when formulating budgets for state parks:

“The economic benefits of parks and open spaces need to be better quantified and taken into consideration in long-term planning and funding decisions. Numerous benefits of parks and open spaces are not now fully quantified or adequately considered. Benefits often overlooked include those related to watershed protection, air quality, recreational opportunities for adjacent communities, and human health. The costs avoided for mitigation of water and air pollution and health care need to be recognized as well.”

While the recommendation was made in terms of the formulation of the state budget for parks, the underlying principles have application in a much broader context of open space preservation, growth management and environmental protection. This is bolstered by another recommendation of this committee that:

“The park system should not be looked at in isolation, but should be considered a part of a larger open space system. That larger system includes such areas as federal, regional and local parks; natural heritage areas; wildlife management areas; scenic byways; private properties under conservation easements; and agricultural and forestal districts.”

V. Water Quality Improvement Act

Prior to the 1997 Session this committee developed and adopted the concepts that the 1997 General Assembly passed as the Water Quality Improvement Act. Among the act's provisions are statements of responsibility related to how the use of land impacts water quality and a mechanism to support localities efforts at reducing nonpoint source pollution.

As to responsibilities, a portion of § 10.1-2124 reads:

“The state has the responsibility under Article XI of the Constitution of Virginia to protect the bays, lakes, rivers, streams, creeks and other state waters of the

Commonwealth from pollution and impairment. Commercial and residential development of land as well as agricultural and other land uses may cause the impairment of state waters through nonpoint source pollution. In the exercise of their authority to control land use and development, it is the responsibility of counties, cities and towns to consider the protection of all bays, lakes, rivers, streams, creeks, and other state waters from nonpoint source pollution. The exercise of environmental stewardship by individuals is necessary to protect state waters from nonpoint source pollution."

As to localities efforts to deal with nonpoint source pollution, Subsection A of § 10.1-2127 calls on the Department of Conservation and Recreation (DCR) to develop a report indicating geographic regions where water quality is demonstrated to be impaired or degraded as the result of such pollution. Subsection B of § 10.1-2127 encourages DCR and localities to develop cooperative programs to address the water quality problems. These voluntary "initiatives may include the modification, if necessary, of local land use control ordinances."

The development or implementation of programs pursuant to Subsection B § 10.1-2127 are to be given a "high priority in the distribution of Virginia Water Quality Improvement Grants from moneys allocated to nonpoint source pollution." (Subsection B of § 10.1-2129)

#

999226376

HOUSE BILL NO. 2273

Offered January 21, 1999

A BILL to amend and reenact §§ 2.1-1.7, 2.1-20.4, 2.1-51.9, 3.1-18.8 and 9-6.25:2 of the Code of Virginia and to amend the Code of Virginia by adding in Title 10.1 a chapter numbered 12.1, containing articles numbered 1, 2, and 3, consisting of sections numbered 10.1-1222 through 10.1-1238, and to repeal Article 2 (§§ 10.1-1188 through 10.1-1192) of Chapter 11.1 of Title 10.1, relating to creation of the Virginia Natural Resources Policy Act.

Patron—Murphy

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.7, 2.1-20.4, 2.1-51.9, 3.1-18.8 and 9-6.25:2 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding in Title 10.1 a chapter numbered 12.1, containing articles numbered 1, 2, and 3, consisting of sections numbered 10.1-1222 through 10.1-1238, as follows:

§ 2.1-1.7. State councils.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

- Adult Education and Literacy, Virginia Advisory Council for
- Aging, Commonwealth Council on
- Agricultural Council, Virginia
- Apprenticeship Council
- Blue Ridge Regional Education and Training Council
- Child Day-Care Council
- Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion
- Coastal Land Management Advisory Council, Virginia
- Commonwealth Competition Council
- Commonwealth's Attorneys' Services Council
- Developmental Disabilities Planning Council, Virginia
- Disability Services Council
- Equal Employment Opportunity Council, Virginia
- Housing for the Disabled, Interagency Coordinating Council on
- Human Rights, Council on
- Human Services Information and Referral Advisory Council
- Indians, Council on
- Interagency Coordinating Council, Virginia
- Job Training Coordinating Council, Governor's
- Land Evaluation Advisory Council
- Maternal and Child Health Council
- Military Advisory Council, Virginia
- Needs of Handicapped Persons, Overall Advisory Council on the
- Prevention, Virginia Council on Coordinating
- Public Records Advisory Council, State
- Rate-setting for Children's Facilities, Interdepartmental Council on
- Revenue Estimates, Advisory Council on
- Specialized Transportation Council
- State Health Benefits Advisory Council
- Status of Women, Council on the
- Substance Abuse Services Council
- Technology Council, Virginia
- Virginia Business-Education Partnership Program, Advisory Council on the

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HB2273

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1 Virginia Recycling Markets Development Council.
 2 Workforce Training Council, Statewide.
 3 B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall
 4 be referred to as councils:
 5 Council on Information Management
 6 Higher Education, State Council of
 7 Independent Living Council, Statewide
 8 *Natural Resources Council, Virginia*
 9 Rehabilitation Advisory Council, Statewide
 10 Rehabilitation Advisory Council for the Blind, Statewide.
 11 Transplant Council, Virginia
 12 § 2.1-20.4. Bodies receiving compensation.
 13 Notwithstanding any other provision of law, members of the commissions, boards, committees,
 14 councils and other similar bodies listed below, and members of any other board, committee, council,
 15 or similar body who are appointed at the state level, shall receive compensation from state funds
 16 pursuant to § 2.1-20.3:
 17 Accountancy, Board for
 18 Agriculture and Consumer Services, Board of
 19 Air Pollution Control Board, State
 20 Airports Authority, Virginia
 21 Apprenticeship Council
 22 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape
 23 Architects, Board for
 24 Athletic Board, Virginia
 25 Auctioneers Board
 26 Audiology and Speech-Language Pathology, Board of
 27 Aviation Board, Virginia
 28 Barbers, Board for
 29 Branch Pilots, Board for
 30 Building Code Technical Review Board, State
 31 Charitable Gaming Commission
 32 Chesapeake Bay Local Assistance Board
 33 Coal Mining Examiners, Board of
 34 College Building Authority
 35 Commonwealth Competition Council
 36 Commonwealth Transportation Board
 37 Conservation and Development of Public Beaches, Board on
 38 Conservation and Recreation, Board of
 39 Contractors, Board for
 40 Correctional Education, Board of
 41 Corrections, Board of
 42 Cosmetology, Board for
 43 Criminal Justice Services Board
 44 Deaf and Hard-of-Hearing, Advisory Board for the
 45 Dentistry, Board of
 46 Education, State Board of
 47 Education Loan Authority, Virginia - Board of Directors
 48 Elections, State Board of
 49 Environment, Council on the
 50 Fire Services Board, Virginia
 51 Funeral Directors and Embalmers, Board of
 52 Game and Inland Fisheries, Board of
 53 Geology, Board for
 54 Health, State Board of

- 1 Health Professions, Board of
- 2 Hearing Aid Specialists, Board for
- 3 Higher Education, State Council of
- 4 Historic Resources, Board of
- 5 Housing and Community Development, Board of
- 6 Information Management, Council on
- 7 Juvenile Justice, State Board of
- 8 Marine Resources Commission
- 9 Medical Assistance Services, Board of
- 10 Medical Complaint Investigation Committee
- 11 Medicine, Board of
- 12 Mental Health, Mental Retardation and Substance Abuse Services Board, State
- 13 Milk Commission
- 14 Mineral Mining Examiners, Board of
- 15 Motor Vehicle Dealer Board
- 16 Nursing, Board of
- 17 Nursing Home Administrators, Board of
- 18 Occupational Therapy, Advisory Board on
- 19 Oil and Gas Conservation Board, Virginia
- 20 Opticians, Board for
- 21 Optometry, Board of
- 22 Pesticide Control Board
- 23 Pharmacy, Board of
- 24 Physical Therapy, Advisory Board on
- 25 Port Authority, Board of Commissioners of the Virginia
- 26 Professional and Occupational Regulation, Board for
- 27 Professional Counselors, Board of
- 28 Professional Soil Scientists, Board for
- 29 Psychology, Board of
- 30 Public Defender Commission
- 31 Public School Authority, Virginia
- 32 Purchases and Supply Appeals Board
- 33 Real Estate Appraiser Board
- 34 Real Estate Board
- 35 Recreation Specialists, Board of
- 36 Rehabilitative Services, Board of
- 37 Respiratory Therapy, Advisory Board on
- 38 Safety and Health Codes Board
- 39 Seed Potato Board
- 40 Social Services, Board of
- 41 Social Work, Board of
- 42 State Health Department Sewage Handling and Disposal Appeal Review Board
- 43 Substance Abuse Certification Board
- 44 Surface Mining Review, Board of
- 45 Treasury Board
- 46 Veterans' Affairs, Board on
- 47 Veterinary Medicine, Board of
- 48 Virginia Advanced Shipbuilding and Carrier Integration Center Board
- 49 Virginia Board for Asbestos Licensing
- 50 Virginia Health Planning Board
- 51 Virginia Manufactured Housing Board
- 52 *Virginia Natural Resources Council*
- 53 Virginia Veterans Care Center Board of Trustees
- 54 Virginia Waste Management Board

1 Visually Handicapped, Virginia Board for the
 2 Waste Management Facility Operators, Board for
 3 Water Control Board, State
 4 Waterworks and Wastewater Works Operators, Board for
 5 Well Review Board, Virginia.

6 § 2.1-51.9. Agencies for which Secretary of Natural Resources responsible.

7 The Secretary shall be responsible to the Governor for the following agencies: Department of
 8 Conservation and Recreation, Department of Historic Resources, Marine Resources Commission,
 9 Department of Game and Inland Fisheries, Chippokes Plantation Farm Foundation, Chesapeake Bay
 10 Local Assistance Department, Virginia Museum of Natural History, *Virginia Natural Resources*
 11 *Council* and the Department of Environmental Quality.

12 The Governor may, by executive order, assign any state executive agency to the Secretary of
 13 Natural Resources, or reassign any agency listed above to another secretary.

14 § 3.1-18.8. Review of capital projects.

15 In preparing its report on each major ~~state project action~~, as required in § ~~40.1-1188 et seq.~~
 16 *10.1-1233*, each state agency shall demonstrate that it has considered the impact that project would
 17 have on important farmlands as required in § 3.1-18.4, and further has adequately considered
 18 alternatives and mitigating measures. ~~The Council on the Environment~~ *Virginia Natural Resources*
 19 *Council*, in conducting its review of each major ~~state project action~~, shall ensure that such
 20 consideration has been demonstrated and shall incorporate its evaluation of the effects that project
 21 would have on important farmlands in its comments to the Governor.

22 § 9-6.25.2. Policy boards, commissions and councils.

23 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
 24 following policy boards, commissions and councils:

25 Apprenticeship Council

26 Athletic Board

27 Auctioneers Board

28 Blue Ridge Regional Education and Training Council

29 Board for Accountancy

30 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and

31 Landscape Architects

32 Board for Barbers

33 Board for Contractors

34 Board for Cosmetology

35 Board for Geology

36 Board for Hearing Aid Specialists

37 Board for Opticians

38 Board for Professional and Occupational Regulation

39 Board for Professional Soil Scientists

40 Board for Waterworks and Wastewater Works Operators

41 Board of Agriculture and Consumer Services

42 Board of Audiology and Speech-Language Pathology

43 Board of Coal Mining Examiners

44 Board of Conservation and Recreation

45 Board of Correctional Education

46 Board of Dentistry

47 Board of Directors, Virginia Student Assistance Authorities

48 Board of Funeral Directors and Embalmers

49 Board of Health Professions

50 Board of Historic Resources

51 Board of Housing and Community Development

52 Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse

53 Treatment Professionals

54 Board of Medical Assistance Services

- 1 Board of Medicine
- 2 Board of Mineral Mining Examiners
- 3 Board of Nursing
- 4 Board of Nursing Home Administrators
- 5 Board of Optometry
- 6 Board of Pharmacy
- 7 Board of Psychology
- 8 Board of Recreation Specialists
- 9 Board of Social Services
- 10 Board of Social Work
- 11 Board of Surface Mining Review
- 12 Board of Veterinary Medicine
- 13 Board on Conservation and Development of Public Beaches
- 14 Cemetery Board
- 15 Chesapeake Bay Local Assistance Board
- 16 Child Day-Care Council
- 17 Commission on Local Government
- 18 Commonwealth Transportation Board
- 19 Council on Human Rights
- 20 Council on Information Management
- 21 Criminal Justice Services Board
- 22 Design-Build/Construction Management Review Board
- 23 Disability Services Council
- 24 Farmers Market Board, Virginia
- 25 Interdepartmental Council on Rate-setting for Children's Facilities
- 26 Library Board, The Library of Virginia
- 27 Marine Resources Commission
- 28 Milk Commission
- 29 Pesticide Control Board
- 30 Real Estate Appraiser Board
- 31 Real Estate Board
- 32 Reciprocity Board, Department of Motor Vehicles
- 33 Safety and Health Codes Board
- 34 Seed Potato Board
- 35 Specialized Transportation Council
- 36 State Air Pollution Control Board
- 37 State Board of Corrections
- 38 State Board of Elections
- 39 State Board of Health
- 40 State Board of Juvenile Justice
- 41 State Health Department, Sewage Handling and Disposal Appeal Review Board
- 42 State Library Board
- 43 State Mental Health, Mental Retardation and Substance Abuse Services Board
- 44 State Water Control Board
- 45 Substance Abuse Certification Board
- 46 Treasury Board, The, Department of the Treasury
- 47 Virginia Aviation Board
- 48 Virginia Board for Asbestos and Lead
- 49 Virginia Fire Services Board
- 50 Virginia Gas and Oil Board
- 51 Virginia Health Planning Board
- 52 Virginia Manufactured Housing Board
- 53 *Virginia Natural Resources Council*
- 54 Virginia Parole Board

1 Virginia Public Broadcasting Board
 2 Virginia Soil and Water Conservation Board
 3 Virginia Voluntary Formulary Board
 4 Virginia Waste Management Board
 5 Waste Management Facility Operators, Board for.

6 CHAPTER 12.1.

7 VIRGINIA NATURAL RESOURCES POLICY ACT.

8 Article 1.

9 General Provisions.

10 § 10.1-1222. Purpose.

11 *The purpose of this chapter is to recognize the importance of fostering consistency between the*
 12 *Commonwealth's natural resource protection programs and the Commonwealth's economic*
 13 *contributions to projects which may have adverse impacts on the value of the state's natural resource*
 14 *base. The Commonwealth's financial commitment to natural resource programs, while constituting a*
 15 *small percentage of the overall spending of the Commonwealth, is, nevertheless, substantial. In order*
 16 *to improve and protect those investments in the value of our natural resources, it is imperative that*
 17 *projects which utilize state funding be evaluated so as to be certain that the state's financial*
 18 *investments in natural resource conservation are protected for future generations.*

19 *The economic welfare of the Commonwealth, the health and preservation of its natural resources,*
 20 *the health, safety and welfare of its citizens, the efficient and economical use and adequacy of its*
 21 *infrastructure and the fiscally responsible utilization of state financial resources will be promoted by*
 22 *coordinated approaches which (i) promote consistency and coordination in the development and*
 23 *implementation of programs and actions affecting the Commonwealth's natural resources: (ii) provide*
 24 *information, guidance and support to local and regional efforts: (iii) assure that tax dollars are spent*
 25 *effectively and efficiently in a manner that takes into account the value and contributions of the*
 26 *Commonwealth's natural resources and the Commonwealth's general goals and policies to enhance*
 27 *and preserve those natural resources: and (iv) are consistent with the specific policies in § 10.1-1234.*

28 § 10.1-1223. Definitions.

29 *As used in this chapter, unless the context requires a different meaning:*

30 *"Major action" means any activity involving \$ 500,000 or more in funds made available by the*
 31 *state, whether through direct payments, grants or loans for the acquisition of an interest in land, for*
 32 *the construction of any new facility or for the improvement, expansion, support or maintenance of any*
 33 *existing facility.*

34 *"Natural resource impact" means actual or potential changes in the natural, environmental, scenic*
 35 *and historical attributes of the Commonwealth from direct, indirect or cumulative effects.*

36 *"Natural resources" means the natural, environmental, scenic and historical attributes of the*
 37 *Commonwealth.*

38 Article 2.

39 Virginia Natural Resources Council.

40 § 10.1-1224. Virginia Natural Resources Council established; membership.

41 *There is hereby created the Natural Resources Council (the "Council"). The Council shall be*
 42 *composed of five citizen members selected by the Governor. The terms of the Council members shall*
 43 *be three years. Of the initial appointments by the Governor, one shall be for a period of one year,*
 44 *two shall be for a period of two years and two shall be for a period of three years. Members shall be*
 45 *well-versed and experienced in fields relevant to the Council's purpose, including state and federal*
 46 *environmental law, natural resource management, and land use planning. The Council shall select a*
 47 *chairman annually from its membership.*

48 § 10.1-1225. Council Director.

49 *The Council Director, appointed by the Governor to serve at his pleasure for a term coincident*
 50 *with his own, shall serve as executive officer of the Council. The Director shall, under the direction*
 51 *and control of the Governor, exercise such power and perform such duties as are conferred or*
 52 *imposed upon him by law and shall perform such other duties as may be required of him by the*
 53 *Council. The Director may designate members of his staff to act in his place, except in the adoption*
 54 *or promulgation of any regulation.*

1 § 10.1-1226. *General powers of the Council.*

2 The Council shall have the following general powers, any of which may be delegated to the
3 Director as appropriate:

4 1. *Employ such personnel and procure such professional services as may be necessary to carry out*
5 *the duties of the Council;*

6 2. *Make and enter into all contracts and agreements necessary or incidental to the performance of*
7 *its duties and the execution of its powers under this chapter, including, but not limited to, contracts*
8 *with the United States, other states, other state agencies, localities and political subdivisions of the*
9 *Commonwealth;*

10 3. *Accept grants from the United States government and agencies and instrumentalities thereof and*
11 *any other source. To these ends, the Council shall have the power to comply with such conditions and*
12 *execute such agreements as may be necessary, convenient, or desirable;*

13 4. *Accept and administer services, property, gifts and other funds donated or appropriated to it*
14 *and make contracts related thereto;*

15 5. *Acquire in any lawful manner personal or real property or any interest therein deemed*
16 *necessary in the performance of the Council's functions, and maintain and improve such property or*
17 *dispose of it when necessary;*

18 6. *Initiate and supervise research programs; and*

19 7. *Promulgate regulations necessary to carry out the provisions of this chapter.*

20 § 10.1-1227. *Responsibilities and duties of Council; coordination and implementation of natural*
21 *resource policies: assistance to local governments.*

22 The Council shall have the responsibility and all necessary authority to:

23 1. *Review and comment on natural resource impact reports submitted pursuant to Article 3*
24 *(§ 10.1-1233 et seq.) of this chapter;*

25 2. *Foster and assist in the development of management and administrative systems and practices*
26 *which will assure coordinated and efficient implementation of the natural resource preservation*
27 *purposes, goals and policies of this chapter;*

28 3. *Involve heads of agencies and other personnel in meetings to review policies and programs of*
29 *mutual concern relating to natural resources;*

30 4. *Provide staff support to the meetings held pursuant to § 10.1-1232;*

31 5. *Coordinate the integration of the environmental information of state agencies as it deems*
32 *necessary to achieve the purposes of this chapter; and*

33 6. *At the written request of a locality, provide and coordinate information and assistance to*
34 *localities requesting support in evaluating projects and actions with potential natural resource*
35 *impacts, including, but not limited to, development projects, road and transportation construction and*
36 *planning projects, solid waste facility siting, and prison construction.*

37 § 10.1-1228. *Council research and reports.*

38 The Council's duties shall include, after holding public hearings throughout the Commonwealth,
39 the issuance, by October 1 of each even numbered year, of a report on the activities of the Council,
40 on the results of meetings held pursuant to § 10.1-1232, and on the state of the Commonwealth's
41 natural resources. The report shall include, among other things:

42 1. *An assessment of natural resource trends affecting the Commonwealth and their implications for*
43 *the future of Virginia's natural resources;*

44 2. *An assessment of the effectiveness of state policies, procedures and practices in ensuring that*
45 *the purposes and policies of this chapter are being and will be met;*

46 3. *Any suggested legislation and management actions to better achieve those purposes and*
47 *policies;*

48 4. *Planning, coordination, policy and other decisions made to achieve the purposes and policies of*
49 *this chapter resulting from meetings held pursuant to § 10.1-1232, including measures taken to utilize*
50 *state policies and funding in a manner that preserves and protects the Commonwealth's natural*
51 *resources; and*

52 5. *An assessment of the compliance by all state agencies, boards, authorities, commissions,*
53 *political subdivisions, localities and any other branch of state government with the purposes and*
54 *policies created under this chapter.*

1 § 10.1-1229. Meetings.

2 The Council shall meet at least once every three months, and other meetings may be held at any
3 time or place determined by a majority of the members of the Council or upon call of the Director.

4 § 10.1-1230. Compliance with chapter.

5 The laws, regulations and policies of the Commonwealth shall be interpreted, administered and
6 implemented by all state agencies, boards, authorities, commissions, political subdivisions, localities
7 and any other branch of the state government, and their officers and employees, in accordance with
8 the purposes and policies set forth in this chapter.

9 All state agencies, boards, authorities, commissions, political subdivisions, localities and all other
10 branches of state government shall review their statutory authorities, regulations and policies and
11 procedures for the purpose of determining whether there are any deficiencies or inconsistencies
12 therein which prohibit full compliance with the purposes, provisions, goals and policies of this
13 chapter and shall take all necessary steps to achieve compliance.

14 § 10.1-1231. Cooperation of state agencies and universities.

15 All state agencies, boards, authorities, commissions, political subdivisions, localities and any other
16 branch of the state government, and their officers and employees, shall cooperate with the Council in
17 carrying out the purposes of this chapter. State institutions of higher education shall provide such
18 computer-based information resources as may be available and requested by the Council.

19 § 10.1-1232. Secretarial level coordination and review.

20 The Secretaries of the Secretariats established in Title 2.1, and all other members of the
21 Governor's cabinet identified by him, shall meet at least quarterly in a meeting chaired by the
22 Secretary of Natural Resources and staffed by the Virginia Natural Resource Council.

23 The purpose of the meetings shall be to review each member's programs, policies and major
24 initiatives to:

25 1. Identify conflicts with natural resources preservation efforts and the purposes and policies of
26 this chapter;

27 2. Evaluate the natural resources benefits and burdens of programs, policies and initiatives,
28 including the expenditure of state funds. This review shall include, but not be limited to, the
29 evaluation of each Secretariat's distribution of funds, whether through direct payment, grant, loan, or
30 other financial contribution, for infrastructure, including, but not limited to, roads, water- and
31 sewer-related projects, and facilities, and through the Governor's Development Opportunity Fund; and

32 3. Develop planning, coordination, and policy decisions to achieve the objectives, goals and
33 policies of this chapter, including measures to utilize state funding in a manner that preserves and
34 protects the Commonwealth's natural resources.

35 Article 3.

36 Natural Resource Impact Review.

37 § 10.1-1233. Natural resource impact reports on major actions.

38 A. Any person, state agency, board, authority, commission, political subdivision, locality or other
39 branch of state government, including state-supported institutions of higher education, who is
40 responsible for a major action shall prepare and submit a natural resource impact report to the
41 Council on the major action. Those required to submit natural resource impact reports on major
42 actions may submit a natural resource impact report on other actions.

43 B. Natural resource impact reports shall include, but not be limited to, the following:

44 1. The natural resource impact of the major action, including the impact on wildlife habitat;

45 2. Any adverse natural resource effects which cannot be avoided if the major action is undertaken;

46 3. Measures proposed to minimize any adverse natural resource impact of the major action;

47 4. Any alternatives to the proposed major action;

48 5. Any irreversible natural resource changes which would be involved in the major action; and

49 6. Any inconsistency with the purposes and policies of this chapter including, but not limited to,
50 those in § 10.1-1222 and § 10.1-1235.

51 If the major action is for the improvement, expansion, support or maintenance of a facility or land
52 acquisition which has not undergone the review provided for by this article, the report and review
53 provisions of this article shall extend to the original action as well as the proposed action.

54 For the purposes of subdivision 4, the report shall contain all alternatives considered, including,

1 but not limited to, the alternative of not moving forward with the major action, and the reasons why
2 the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives
3 were not considered.

4 § 10.1-1234. Policies.

5 A. It is the policy of the Commonwealth to protect and improve the environment and to avoid
6 adverse natural resource impacts. In making decisions regarding major actions, all state agencies,
7 boards, authorities, commissions, political subdivisions, localities and any other branch of state
8 government, in addition to other natural resource protection policies and requirements found
9 elsewhere in the Code, shall:

10 1. Support the development and redevelopment of infrastructure needed for urban and rural
11 development which encourages compact and efficient patterns of development, minimizes consumption
12 of land and reduces resource consumption;

13 2. Conserve and protect open space, scenic and natural areas, recreational areas, and
14 endangered, unique and threatened plant and animal species and their habitat;

15 3. Protect and enhance the Commonwealth's natural resources in order to further tourism and
16 maintain the Commonwealth's heritage;

17 4. Support and maintain the viability of agricultural and forestal lands;

18 5. Support coordination and consistency between and among localities in the development and
19 implementation of comprehensive plans and zoning and subdivision ordinances to ensure that
20 decisions by one locality do not adversely affect natural resources of adjacent jurisdictions;

21 6. Recognize the economic, health and cost avoidance benefits of environmental and natural
22 resources protection efforts and the maintenance of open space, wetlands and riparian buffers; and

23 7. Protect, manage and maintain the resources that support resource based-industries so that their
24 productivity is sustained for future generations.

25 § 10.1-1235. Development of procedures for administration of article.

26 A. The Council shall, in conjunction with other state agencies, coordinate the development of
27 criteria and procedures to ensure the orderly preparation and evaluation of natural resource impact
28 reports. These procedures shall provide for submission of impact reports in sufficient time to permit
29 any modification of the major action which may be necessitated because of natural resource impact.

30 B. The Council shall develop procedures to give expedited review and consideration to impact
31 reports that show an action that is: (i) consistent with policies set forth in this chapter; (ii) designed
32 to produce positive natural resource benefits and promote the purposes and policies of this chapter;
33 (iii) part of a coordinated plan between localities; (iv) projected to promote redevelopment of
34 abandoned or under-utilized industrial areas within city or town boundaries; (v) in an area already
35 served by adequate water and sewer, schools and roads and public transportation; (vi) consistent with
36 comprehensive plans of the action's location and those of neighboring jurisdictions; or (vi) part of a
37 joint plan between localities to coordinate growth and infrastructure between the localities.

38 § 10.1-1236. Council to review report and make statement to Governor; comments on impacts.

39 A. The Council shall review natural resource impact reports and comment to the Governor on the
40 natural resource impact of each major action within sixty days of the receipt of a complete natural
41 resource impact report. The Council may, as necessary in its judgment, return a submittal for more
42 information in order to obtain a complete report. The Council shall accept written comments during
43 its period of review and shall submit the comments with its statement to the Governor. The Council's
44 statement shall contain a conclusion as to whether state funds should be used to fund, in whole or in
45 part, the major action under review. The statement of the Council and any public comments shall be
46 made available to the General Assembly and to the public at the time of submission by the Council to
47 the Governor.

48 B. Impacts which are not in conformance with state plans for air or water quality, with
49 commitments made for the restoration of the Chesapeake Bay, or the purposes and policies of this
50 chapter, shall be reported by the Council as having an adverse natural resource impact.

51 § 10.1-1237. Approval of Governor required.

52 A. Until the Governor reviews the Council's report and authorizes the taking of action, no steps
53 shall be undertaken in furtherance of a major action which would (i) have an adverse environmental
54 impact or (ii) limit the choice of reasonable alternatives.

1 *B. The State Comptroller shall not authorize payments of funds from the state treasury for a major*
 2 *action reviewable by the Council unless the request is accompanied by the written approval of the*
 3 *Governor after his consideration of the comments of the Council. If the statement of the Council*
 4 *contains a conclusion that state funds should not be used to fund, in whole or in part, a major action,*
 5 *the State Comptroller shall not authorize payments of funds from the state treasury for a major action*
 6 *unless the expenditure is approved by the Governor notwithstanding the Council's statement.*

7 *C. Those wishing to take actions with an adverse natural resource impact when emergency*
 8 *circumstances make it necessary to take an action without observing the provisions of this chapter*
 9 *shall consult with the Council to develop an alternative procedure applicable only to those actions*
 10 *necessary to control the immediate impact of the emergency.*

11 *§ 10.1-1238. Cooperation of state agencies: relationship to other programs.*

12 *A. All departments, commissions, boards, authorities, agencies, offices and institutions within any*
 13 *branch of the state government shall cooperate with the Council in carrying out the purposes of this*
 14 *article.*

15 *B. All powers and duties conferred or imposed upon the Director of the Department of*
 16 *Environmental Quality that are duplicative of those conferred or imposed upon the Director of the*
 17 *Council by this article shall be the responsibility of the Director of the Council or his designee.*

18 *C. Judgment of the merits of any required permit shall remain the responsibility of each respective*
 19 *board, commission, or state agency.*

20 **2. That the regulations, criteria, procedures and agreements of the Department of**
 21 **Environmental Quality implementing the provisions of Article 2 (§§ 10.1-1188 through**
 22 **10.1-1192) of Chapter 11.1 of Title 10.1 of the Code of Virginia shall continue in effect as**
 23 **regulations of the Virginia Natural Resources Council mutatis mutandis, until amended or**
 24 **repealed by the Council, for use in submitting and evaluating environmental impact statements.**

25 **3. That Article 2 (§§ 10.1-1188 through 10.1-1192) of Chapter 11.1 of Title 10.1 of the Code of**
 26 **Virginia is repealed.**

Official Use By Clerks	
Passed By The House of Delegates without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>	Passed By The Senate without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____ Clerk of the House of Delegates	_____ Clerk of the Senate

Appendix Number 6

HOUSE JOINT RESOLUTION NO. 719

Continuing the Joint Subcommittee Studying the Future of Virginia's Environment.

Agreed to by the House of Delegates, February 25, 1999

Agreed to by the Senate, February 23, 1999

WHEREAS, the 1996 Session of the General Assembly passed House Joint Resolution No. 221 creating a study to examine the history of environmental and natural resources programs and funding for such programs in the Commonwealth and to develop a vision and plan for the future protection, enhancement, and utilization of Virginia's natural resources; and

WHEREAS, the 1998 Session of the General Assembly passed House Joint Resolution No. 136 continuing the Joint Subcommittee Studying the Future of Virginia's Environment and passed Senate Joint Resolution No. 177 calling on the study committee to also examine numerous issues related to growth and development; and

WHEREAS, the study committee has formed subcommittees on parks and open spaces, solid waste, the Water Quality Improvement Act and on drafting a vision and has held numerous meetings in locations throughout the Commonwealth; and

WHEREAS, the full study committee has also met throughout the year and has heard from experts on a myriad of environmental protection, resources management, and growth and development issues and has met jointly with another study committee examining the needs of localities to meet the infrastructure need associated with growth; and

WHEREAS, the study committee developed and supported the concepts that became the Virginia Water Quality Improvement Act of 1997, and has developed numerous policy and legislative recommendations to improve the Commonwealth's park system, to provide additional tools and incentives to promote voluntary land conservation and conservation easements, to provide localities with additional tools to aid in their efforts at land preservation and agricultural land protection and has made significant legislative and funding recommendations to protect open spaces well into the future, and has made numerous recommendations to more strictly regulate solid waste in Virginia and to cleanup and close old and abandoned landfills as interim steps toward fulfilling its charge; and

WHEREAS, due to time constraints and the volume of issues and options under consideration and the additional issues assigned to it by the 1998 Session of the General Assembly, the joint subcommittee has been unable to complete its tasks to the degree it would like and unanimously agrees that it should meet for an additional year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying the Future of Virginia's Environment be continued. The joint subcommittee shall be composed of those members appointed pursuant to HJR No. 221 (1996) and HJR No. 136 (1998). Any vacancies shall be filled as provided in HJR No. 221 (1996) and HJR No. 136 (1998), except that appointments of members of the House of Delegates to fill vacancies shall also be in accordance with the principles of Rule 16 of the Rules of the House of Delegates.

In conducting its study, the joint subcommittee shall continue the development of a vision and plan for the future of Virginia's environment as called for in HJR No. 221 (1996) and shall also include in its deliberations the identification of stable funding sources for the state park and open space system and the issues assigned to it by SJR No. 177 (1998).

The direct costs of this study shall not exceed \$10,250.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.



Go to ([General Assembly Home](#))

**Water Quality Improvement Act
1998 Carry Over Bills**

Appendix Number 7

<u>Bill #, Patron, Summary</u>	<u>1998 Session Action</u>	<u>Comments</u>	<u>Subcommittee 10/21 Action</u>
<p>SB 49 Senator Bolling</p> <p>Clarifies that point and nonpoint source grants from the Water Quality Improvement Fund may be made throughout the Chesapeake Bay watershed whether or not the project is in an area with a completed tributary plan.</p>	<p>Carried over in Senate Agriculture, Conservation and Natural Resources</p> <p>The Appropriations Act addresses point source grants (Item 427 D 4) and nonpoint grants (Item 436 C 2) for nutrient reduction in areas without completed tributary strategies.</p>	<p>Item 427 D 4 reads: "Funds deposited in the [Fund] in excess of the amounts specified in subparagraph 1 above II (allocating \$37.1 million for point source grants) shall be used by DEQ to implement adopted strategies for nutrient reduction in the [lower bay tributaries]. In the event that final strategies have not been adopted in accordance with the statutory deadlines, projects to reduce nutrients in these rivers and basins shall be eligible to receive grants from the [Fund]."</p> <p>Item 436 C 2 contains essentially the same language for nonpoint sources. However, \$1.75 million is also specifically appropriated for the lower tributaries.</p>	<p>Senator Bolling to seek clarification from DEQ and the Secretary whether or not funds will be made available for the lower tributaries even if they do not have a completed tributary strategy. (See attached letter DEQ Director Treacy)</p> <p>Appropriate budget language will be developed to address future concerns</p>
<p>SB 492 Senator Gartlan</p> <p>Adds "education efforts aimed at improving water quality" to the examples of the potential uses of the Water Quality Improvement Grant funds available for nonpoint source pollution.</p>	<p>Carried over in Senate Agriculture, Conservation and Natural Resources</p>	<p>Section 10.1-2132 C currently directs that the nonpoint sources grants be used for "initiatives that are clearly demonstrated as likely to achieve reductions in nonpoint source pollution...." The section contains a non-exclusive list of eligible initiatives which includes such things as: conservation easement and stream buffer acquisition, nutrient management plan design assistance, and implementation of nutrient reduction practices.</p>	<p>Staff directed to contact patron and interested others to see if language can be crafted that links the education effort to the actual implementation of a specific practice or initiative aimed at reducing nonpoint source pollution (See substitute language in § 10.1-2132)</p>
<p>HB 1089 Delegate Bryant</p> <p>Removes a restriction that point source grants from the Water Quality Improvement Fund must first go to installation of biological nutrient removal at POTWs.</p>	<p>Carried over in Chesapeake and Its Tributaries</p>	<p>General directions remain in the WQIA that grants are to be used for efforts that are clearly demonstrated as likely to achieve measurable and specific water quality improvements. Existing provisions of the Water Quality Improvement Act also place a priority on nutrient reduction.</p>	<p>New language agreed to allowing use of the Fund for other water quality improvements if the DEQ Director determines that there are sufficient funds available for substantial and continuing progress in implementation of tributary strategies. (See substitute language in § 10.1-2131)</p>

**Water Quality Improvement Act
1998 Carry Over Bills**

<u>Bill #, Patron, Summary</u>	<u>1998 Session Action</u>	<u>Comments</u>	<u>Subcommittee 10/21 Action</u>
<p>HB 814 Delegate Murphy</p> <ol style="list-style-type: none"> Clarifies that point and nonpoint source grants from the Fund may be made throughout the Chesapeake Bay watershed whether or not the project is in an area with a completed tributary plan. The eligible uses of the Fund are expanded to include sharing in the cost of temporary operational enhancements (versus capital improvements) at wastewater treatment works. Adds "equipment directly related to reducing nonpoint source pollution and improving water quality" to the nonexclusive list of the types of projects that may receive nonpoint funding. The Secretary of Natural Resources is to annually develop, following a period of public comment and a public hearing, guidelines for the prioritization, distribution, and conditions of grants from the Fund. Requires notice of proposed grant agreements to be given to those who request it. Deletes "specific and measurable" from the phrase "specific and measurable pollution reduction achievements to state waters anticipated as a result of each grant award..." in a section outlining the content of a report to be produced by administrative agencies regarding implementation of the Act. 	<p>Carried over in Chesapeake and Its Tributaries</p> <ol style="list-style-type: none"> The Appropriations Act addresses point source grants (Item 427 D 4) and nonpoint grants (Item 436 C 2) for nutrient reduction in areas without completed tributary strategies. The Appropriations Act allows the DEQ Director, beginning January 1, 2000, to provide up to \$3.35 million for operational improvements at Blue Plains. 	<ol style="list-style-type: none"> Item 427 D 4 reads: "Funds deposited in the [Fund] in excess of the amounts specified in subparagraph 1 above (allocating \$37.1 million for point source grants) shall be used by DEQ to implement adopted strategies for nutrient reduction in the [lower bay tributaries]. In the event that final strategies have not been adopted in accordance with the statutory deadlines, projects to reduce nutrients in these rivers and basins shall be eligible to receive grants from the [Fund]." Item 436 C 2 contains essentially the same language for nonpoint sources. However, \$1.75 million is also specifically appropriated for lower tributaries. This would amend the same non-exclusive list that is the subject of Senator Gartlan's bill, SB 492. Section 10.1-2129 currently requires the Secretary to develop the guidelines but it does not specify methods for public input nor does it require the guidelines be developed annually. Section 10.1-2130 currently requires notice to be given to those who have applications for grants pending. 	<ol style="list-style-type: none"> See comments associated with SB 49 No action necessary because of appropriations act language. No action taken Subcommittee agreed that many of the issues raised before the committee resulted from unclear and inconsistent interpretations of the act. A more formal process such as the regulatory process was called for. To be incorporated in substitute No action taken

**Water Quality Improvement Act
1998 Carry Over Bills**

<u>Bill #, Patron, Summary</u>	<u>1998 Session Action</u>	<u>Comments</u>	<u>Subcommittee 10/21 Action</u>
<p>HB 473 Delegate Rust</p> <ol style="list-style-type: none"> 1. Expands the eligible uses of the Water Quality Improvement Fund to include the installation of nutrient removal technology at private wastewater treatment plants. 2. The bill also allows point source funds to be used to share in the cost of temporary operational enhancements (versus capital improvements) at wastewater treatment works, including the Washington, D.C., Blue Plains facility. 3. Allows grants for innovative nutrient reduction technologies that have wide applicability in Virginia. 4. Adds "equipment directly related to protection and improvement of water quality" to the nonexclusive list of the types of projects that may receive nonpoint funding. 5. Deletes the requirement that the nonpoint funds be split evenly between the Chesapeake Bay watershed and the rest of the state. 	<p>Carried over in Chesapeake and Its Tributaries</p> <ol style="list-style-type: none"> 1. The Appropriations Act allows DEQ to expend up to \$6 million for grants to "private sewage treatment plants serving residential areas in the Potomac-Shenandoah Basin..." (Item 427 D 5) 2. The Appropriations Act allows the DEQ Director, beginning January 1, 2000, to provide up to \$3.35 million for operational improvements at Blue Plains. 5. The Appropriation Act distributes, in the first year, a portion of the nonpoint funds as follows: \$4.89 million to the Potomac basin; \$1.75 million to other bay watershed basins; and \$1.75 million to the "southern rivers." (Item 436 C1-3) 	<ol style="list-style-type: none"> 3. May have been addressed by Item 427 D 3 which directs the DEQ Director, with the Governor's approval, to assist the Virginia Economic Development Partnership in issuing a loan of not more than \$1.75 million from the Governor's Development Opportunity Fund for a privatized wastewater reclamation and reuse system. Four conditions for issuing such a grant are specified. 4. This would amend the same nonexclusive list that is the subject of Senator Gartlan's bill SB 492. 	<ol style="list-style-type: none"> 1. The subcommittee voted unanimously that Fund should not be used for private point source projects. 2. No action necessary because of Appropriation Act language. 3. ,4,5. In the absence of comments for the proposed amendments in combination with appropriation act language and language appearing in the WQIA the subcommittee agreed to not recommend the amendments.

Appendix Number 8

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HOUSE BILL NO. 814
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by Murphy
on _____)
(Patron Prior to Substitute—Murphy)

A BILL to amend and reenact §§ 10.1-2129 through 10.1-2132 of the Code of Virginia, relating to the Virginia Water Quality Improvement Act of 1997.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2129 through 10.1-2132 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2129. Agency coordination; conditions of grants.

A. Except as may otherwise be specified in the general appropriation act, the Secretary of Natural Resources, in consultation with the State Forester and the Directors of the Departments of Environmental Quality and Conservation and Recreation and of the Chesapeake Bay Local Assistance Department, and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Chesapeake Bay Local Assistance Board, shall ~~(i)~~ annually, following a public comment period of at least thirty days' duration and a public hearing, allocate moneys in the Fund between point and nonpoint source pollution, and ~~(ii)~~ develop written guidelines for both of which shall receive allocations each year.

B. Except as may otherwise be specified in the general appropriation act, the Secretary of Natural Resources, in consultation with the State Forester and the Directors of the Departments of Environmental Quality and Conservation and Recreation and of the Chesapeake Bay Local Assistance Department, and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the

1 State Water Control Board, and the Chesapeake Bay Local Assistance Board, shall develop
2 written guidelines that (i) specify eligibility requirements; (ii) govern the application for and the
3 distribution and conditions of Water Quality Improvement Grants; and (iii) list criteria for
4 prioritizing funding requests. In developing the guidelines the Secretary shall evaluate and
5 consider, in addition to such other factors as may be appropriate to most effectively restore,
6 protect and improve the quality of state waters: (i) specific practices and programs proposed in
7 any tributary plan required by Article 2 (§ 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1, and
8 the associated effectiveness and cost per pound of nutrients removed; (ii) water quality
9 impairment or degradation caused by different types of nutrients released in different locations
10 from different sources; and (iii) environmental benchmarks and indicators for achieving
11 improved water quality. ~~The guidelines shall include procedures for soliciting applications for~~
12 ~~funding and shall ensure that both point and nonpoint source pollution are equitably~~
13 ~~addressed and funded in each year. The process for development of guidelines pursuant to~~
14 this subsection shall, at a minimum, include (i) use of an advisory committee composed of
15 interested parties; (ii) a sixty-day public comment period on draft guidelines; (iii) written
16 responses to all comments received; and (iv) notice of the availability of draft guidelines and
17 final guidelines to all who request such notice.

18 B—In addition to those the Secretary deems advisable to most effectively restore,
19 protect and improve the quality of state waters, the criteria for prioritizing funding requests
20 shall include: (i) whether the location of the water quality restoration, protection or
21 improvement project or program is within a watershed or subwatershed with documented
22 water nutrient loading problems or adopted nutrient reduction goals; (ii) documented water
23 quality impairment; (iii) the achievement of greater water quality improvements than that
24 required by state or federal law; and (iv) the availability of other funding mechanisms. In the
25 event of a local government grant application request for greater than fifty percent funding for
26 any single project, the Directors and the Secretary shall consider the comparative revenue
27 capacity, revenue efforts and fiscal stress as reported by the Commission on Local

1 Government. The development or implementation of cooperative programs developed
2 pursuant to subsection B of § 10.1-2127 shall be given a high priority in the distribution of
3 Virginia Water Quality Improvement Grants from the moneys allocated to nonpoint source
4 pollution.

5 § 10.1-2130. General provisions related to grants from the Fund.

6 All Water Quality Improvement Grants shall be governed by a legally binding and
7 enforceable grant agreement between the recipient and the granting agency. In addition to
8 provisions providing for payment of the total amount of the grant, the agreement shall, at a
9 minimum, also contain provisions that govern design and installation and require proper long-
10 term operation, monitoring and maintenance of funded projects, including design and
11 performance criteria, as well as contractual or stipulated penalties in an amount sufficient to
12 ensure compliance with the agreement, which may include repayment with interest, for any
13 breach of the agreement, including failure to properly operate, monitor or maintain. Grant
14 agreements shall be made available for public review and comment for a period of no less
15 than thirty days but no more than sixty days prior to execution. The granting agency shall
16 cause notice of a proposed grant agreement to be given to all applicants for Water Quality
17 Improvement Grants whose applications are then pending and to any person requesting such
18 notice.

19 § 10.1-2131. Point source pollution funding; conditions for approval.

20 A. The Department of Environmental Quality shall be the lead state agency for
21 determining the appropriateness of any grant related to point source pollution to be made from
22 the Fund to restore, protect or improve state water quality.

23 B. The Director of the Department of Environmental Quality shall, subject to available
24 funds and in coordination with the Director of the Department of Conservation and Recreation,
25 direct the State Treasurer to make Water Quality Improvement Grants in accordance with the
26 guidelines established pursuant to § 10.1-2129. The Director shall manage the allocation of
27 grants from the Fund to ensure the full funding of executed grant agreements.

1 C. Notwithstanding the priority provisions of § 10.1-2129, ~~in no event shall~~ the Director
2 of the Department of Environmental Quality shall not authorize the distribution of grants from
3 the Fund for purposes other than financing at least fifty percent of the cost of design and
4 installation of biological nutrient removal facilities or other nutrient removal technology at
5 publicly owned treatment works until such time as all tributary plans required by Article 2 (§
6 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1 are developed and implemented unless he finds
7 that there exists in the Fund sufficient funds for substantial and continuing progress in
8 implementation of the tributary plans. ~~The Director shall manage the allocation of grants from~~
9 ~~the Fund to ensure the full funding of executed grant agreements.~~ In addition to the provisions
10 of § 10.1-2130, all grant agreements related to nutrients shall include: (i) numerical
11 concentrations on nutrient discharges to state waters designed to achieve the nutrient
12 reduction goals of the applicable tributary plan; (ii) enforceable provisions related to the
13 maintenance of the numerical concentrations that will allow for exceedences of no more than
14 ten percent and for exceedences caused by extraordinary conditions; and (iii) recognition of
15 the authority of the Commonwealth to make the Virginia Water Facilities Revolving Fund (§
16 62.1-224 et seq.) available to local governments to fund their share of the cost of designing
17 and installing biological nutrient removal facilities or other nutrient removal technology based
18 on financial need and subject to availability of revolving loan funds, priority ranking and
19 revolving loan distribution criteria. At least fifty percent of the cost of the design and installation
20 of biological nutrient removal facilities or other nutrient removal technology at publicly owned
21 treatment works meeting the nutrient reduction goal in an applicable tributary plan and
22 incurred prior to the execution of a grant agreement is eligible for reimbursement from the
23 Fund provided the grant is made pursuant to an executed agreement consistent with the
24 provisions of this chapter.

25 Subsequent to the implementation of the tributary plans, the Director may authorize
26 disbursements from the Fund for any water quality restoration, protection and improvements
27 related to point source pollution that are clearly demonstrated as likely to achieve measurable

1 and specific water quality improvements, including, but not limited to, cost effective
2 technologies to reduce nutrient loads. Notwithstanding the previous provisions of this
3 subsection, the Director may, at any time, authorize grants for technical assistance related to
4 nutrient reduction.

5 § 10.1-2132. Nonpoint source pollution funding; conditions for approval.

6 A. The Department of Conservation and Recreation shall be the lead state agency for
7 determining the appropriateness of any grant related to nonpoint source pollution to be made
8 from the Fund to restore, protect and improve the quality of state waters.

9 B. The Director of the Department of Conservation and Recreation shall, subject to
10 available funds and in coordination with the Director of the Department of Environmental
11 Quality, direct the State Treasurer to make Water Quality Improvement Grants in accordance
12 with the guidelines established pursuant to § 10.1-2129. The Director shall manage the
13 allocation of grants from the Fund to ensure the full funding of executed grant agreements.

14 C. Grant funding may be made available to local governments, soil and water
15 conservation districts and individuals who propose specific initiatives that are clearly
16 demonstrated as likely to achieve reductions in nonpoint source pollution, including excess
17 nutrients, to improve the quality of state waters. Such projects may include, but are in no way
18 limited to, the acquisition of conservation easements related to the protection of water quality
19 and stream buffers; conservation planning and design assistance to develop nutrient
20 management plans for agricultural operations; instructional education directly associated with
21 the implementation or maintenance of a specific nonpoint source pollution reduction initiative;
22 implementation of cost-effective nutrient reduction practices; and reimbursement to local
23 governments for tax credits and other kinds of authorized local tax relief that provides
24 incentives for water quality improvement. The Director shall give initial priority consideration to
25 the distribution of grants from the Fund for the purposes of implementing the tributary plans
26 required by Article 2 (§ 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1. Until such time as the
27 tributary plans are developed and implemented, the Director shall distribute fifty percent of the

1 nonpoint grant funding to their implementation and fifty percent to areas of the Commonwealth
2 not to be covered by the tributary plans, unless otherwise provided in the general
3 appropriation act.

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Draft Environmental Vision

(With comments by
Tim Lindstrom)

The vision:

A clean, productive environment - and a government that promotes
and preserves it.

"The wise conservation of our natural resources is a plus for economic growth and development. Particularly in a state such as Virginia, they can be—should be—complementary. With Virginia's great natural beauty and rich heritage, this state attracts not only tourists but also others (including entrepreneurs) who can see Virginia is indeed an ideal place—not only to retire but to live, to work, to raise a family, and to prosper."

"But without proper and imaginative planning, without conserving our open spaces, or farm lands, our waterways, our wildlife, our forests and without preserving the character of Virginia (so intertwined with its environment) we lose not only our past and quality of life . . . but we may well be destroying our future."

"Protecting the environment is too often seen as something that can be deferred until next year—or the next year—or the year after that. But eventually a price will be paid. . . . And that price will be paid all too often, not by us but by those who follow us—our children . . . our grandchildren."

"To protect the environment many things are needed....."

Citizen comment at Verona public hearing. 1996

Introduction

House Joint Resolution 221 (1996) establishing the Joint Legislative Study Commission on the Future of Virginia's Environment called for the creation of a vision and plan for the future protection, enhancement and utilization of the Commonwealth's natural resources. In crafting a vision for the future we have studied the past, examined the present, heard the advise of our experts and considered the desires of the public. We have made decisions about responsibilities and have imagined possibilities.

At our first meeting in 1996 we received briefings on the history of environmental management and on the budgetary trends for related programs. The historical perspective showed the evolving complexity and need for environmental management as well as the reasons for changes in policy. The financial analysis showed a meager and declining state commitment. We then decided upon seven general areas that would provide a framework for our mission and set out to gather the views of the public and advice from experts. These and other actions are documented in our interim report, House Document 4 (1999). In this document we present a vision statement based upon seven supporting goals. ~~and seven supporting vision statements.~~

The following summary of ~~A few comments~~ on the historical review and expert and public comments provide ~~assist in providing~~ a foundation for understanding the vision statement and supporting goals elements.

History

At the August 1, 1996, meeting, staff presented a report detailing the history of natural resource and environmental management programs by reviewing the evolution of natural resource agencies and their responsibilities and examining the recommendations of a number of earlier studies. Staff noted that the evolution in the nature and complexity of environmental protection and resource management in the Commonwealth has occurred in response to a number of factors ~~situations~~ including:

- 1. Conflicting needs between users of the same resource. For example, protection of open spaces and parks versus development of those areas contributed to passage of the Open-Space Land Act (§ 10.1-1700 et seq.) and the Virginia Conservation Easement Act (§ 10.1-1009 et seq.).**
- 2. Conflicting needs between the need to conserve resources for the future and current demand, ~~resource and those who use it~~. For example, the state manages fish populations under stress, such as the striped bass, rather than allowing commercial and recreational over-fishing.**
- 3. Increased scientific understanding of the impact on human health and the environment of growth, pollution, and resource utilization. For example, an in-depth study of the Chesapeake Bay in the early 1970s, led to a multi-state cooperative Bay restoration effort which has in turn spawned a number of programs in Virginia such as the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.).**
- 4. Enactment of federal environmental laws and associated requirements. For example, implementation by Virginia of the federal Clean Water Act has significantly directed the character of the state's programs.**
- 5. Availability of federal moneys. For example, the availability of grants and loans for upgrades of sewage treatment plants influenced the construction of the plants and the level of water treatment.**
- 6. Environmental "disasters." For example, the Kepone incident in the James River led to stricter regulation.**
- 7. Desires of citizens/public opinion. Over the years, changes in governmental attention to the environment at all levels have been influenced by public opinion.**

In crafting the vision (and its seven supporting goals ~~visions~~) for the future of Virginia's environment we have tried to identify ways to anticipate needs rather than react to crises as has occasionally characterized past actions. ~~in which to be proactive rather than reactive as many of the historical changes have been.~~

Citizens and experts on the present and future

Citizens from all parts of the state came before the committee to express their concerns and beliefs, and to share their knowledge, insights, and expertise. Virginians obviously have great pride in their state, its natural beauty, and its natural resources. They also have a great desire to protect and improve Virginia's environment. Many are actively involved in cleanup, protection, monitoring, and education. Many have issues of local or specific concern that they would like to see addressed, but all view such problems in a larger context of what is good for the Commonwealth as a whole. In fact, many voiced concerns about the declining quality of the Commonwealth's water and air, the uses to which its land resources are being put, and a lack of faith in government to correct or pay attention to these problems. Not one of the hundreds providing comments stated that more cannot be done to protect the environment for the future.

We also heard, over that last three years, from experts on numerous topics. Presentations from our first two years are documented in House Document Number 4 (1999). This year many of our presentations focused on issues related to growth and development (while subcommittees on solid waste, the Water Quality Improvement Act, and open spaces dealt developed recommendations as well). From the citizen and expert comments over the last three years five common themes have emerged:

1. There is a need for better planning.
2. There is a need for better coordination.
3. There is a need for better information.
4. The value of the natural environment must be given greater consideration;
and
5. The state must show leadership in these areas.

In crafting the vision (and its seven supporting goals ~~visions~~) for the future of Virginia's environment we have tried to identify ways in which to be capture the desires of the public and utilize the knowledge of the ~~our~~ experts.

VISION FOR THE FUTURE OF VIRGINIA'S ENVIRONMENT

A clean, productive environment - and a government that promotes and preserves it.

The vision of the future of Virginia's environment should have a basis in the desires of Virginia's citizens. Hundred of citizens have come before us to express their views. They have a clear vision of what they want, they want a clean, productive environment and a government that promotes and preserves it.

By "clean" they mean air, water and land conditions that benefit rather than harm human health, conditions that support and foster aquatic life, wildlife and vegetation, conditions that allow for their use regardless of their location and conditions that support rather than inhibit sustained use of resources.

By "productive" they mean abundant, natural, sustained populations of living resources available for consumptive and non-consumptive recreational as well as economic purposes. They also mean an environment that invites tourism and recreational uses and supports open space (including agricultural and forestal) preservation and uses.

By "environment" they mean not only natural wild-outdoor areas, wildlife habitat, agricultural and forestal ~~ether~~ lands, our atmosphere and waters but the cities and neighborhoods in which they live, work and travel through, the character of those areas and our historic heritage.

By "promotes and preserves" they mean proactive and protective state and local governments that assure that their actions are well planned and coordinated to restore, protect and sustain a "clean, productive environment" not only for current citizens but for future citizens as well.

Accomplishment of the Vision for the Future of Virginia's Environment requires careful attention to the following seven factors: ~~Further explanation of the vision elements can be found by providing additional visions for the seven elements identified by the study committee at its first meeting. These elements are:~~

1. ~~The importance and needs of~~ Resource based industries, including agriculture and forestry;
2. ~~Preservation and improvement of~~ Water and air quality;
3. Monitoring, evaluation, and enforcement of existing and future

environmental protection measures:

4. Land use and development;
5. Open space and recreational needs;
6. Waste management; and
7. Governance issues such as the structure for natural resources management and protection, and policy development and implementation.

1. The importance and needs of Resource-based industries including agriculture and forestry.

Virginia's citizens desire that resources that support resource based industries be protected, managed and maintained so that all achieve the maximum benefit from them and so that the benefits are sustained for future generations.

Testimony expressed a collective view that safeguards need to be applied not only to assure that the resources flourish, but to also assure that utilizing the resource does not harm the environment upon which the resource depends. In addition, safeguards must be in place to assure that water quality, air quality, development pressures and other factors outside of direct resource utilization do not impair the resource. On this last point, a number emphasized that resource-based industries, such as the capture and culture of fish and oysters, are dependent on a clean environment. A clean environment aids in assuring that the product is safe to consume and that the resource can survive, thrive, and be harvested at a beneficial rate. Those who have scientific expertise and are knowledgeable about the resource should manage the resource. Government should provide managers with necessary tools, leadership, support, and guidance.

Many view sustained and sustainable resource-based industries as vitally important to their area and the Commonwealth and many cited them as the preferred economic development tool for their areas. These types of industries can replace declining extractive or manufacturing industries, are relatively clean, and are cost-effective economic development for their communities. In fact, the burden on local tax revenues is less than most other forms of commercial and residential development.

2. Preservation and improvement of w Water and air quality.

Air

Virginia's citizens desire air quality that is healthful for all and is such that natural vistas are clear.

Water

Virginia's citizens desire water quality that allows for a full range of consumptive and recreational opportunities throughout the Commonwealth and which provides substantial habitat for the development of aquatic species.

The preservation and improvement of air and water quality are of great importance to the human, environmental, and economic health of citizens throughout the state. ~~Not only does g~~ Good air and water quality also increases opportunities for economic expansion and significant cost savings, particularly in the areas of the ease of industrial expansion it allows for the avoidance of many costs, particularly by reducing health care costs and lost worker productivity.

Poor air quality is especially burdensome to those to whom the Commonwealth has a special responsibility: the elderly, the very young, and those in poor health. In addition, poor air quality ~~Populations in particular need of protection from poor air quality are the elderly, the young and those with respiratory ailments. Concerns about environmental impacts of poor air quality are also present. Poor air quality not only damages vegetation and but reduces vistas - decreasing the desirability draw of important tourist destinations throughout the Commonwealth such as the Shenandoah National Park. Particulate matter resulting from air pollution entering in the Commonwealth's from the air of pollutants, including excess nutrients, onto our waterways is also of concern. Taking an aggressive stance, particularly at solving the problems of auto emissions, was urged by a number of those testifying before the Commission.~~

Concerns regarding water quality were at the forefront of the comments, making it clear to the committee that:

1. The improvement ~~and maintenance~~ of water quality should be made a priority.
2. Improving water quality is of concern throughout the Commonwealth and not just in the Chesapeake Bay watershed.
3. Both point and nonpoint sources of pollution need to be addressed.
4. All levels of government, citizens, agriculture, business and industry have responsibility for the restoration and protection of water quality.
5. Funding is inadequate for water quality needs.

6. Good water quality is important for a wide range of reasons, including safe human consumption, wildlife and fish habitat, aesthetics, recreation and economic development.
7. Local governments need additional tools to protect water quality, particularly when it comes to dealing with the impacts of growth and development.

This study committee developed the ideas that formed the Water Quality Improvement Act to begin to address these concerns regarding water quality. However, more needs to be done so that the vision may be met.

3. Monitoring, evaluation, and enforcement of existing and future environmental protection measures

Virginia's citizens desire ~~comprehensive and~~ coordinated monitoring and evaluation programs which comprehensively and effectively address all aspects of the Commonwealth's environment and flora and the condition of ecosystems which support them. They also desire the coordination and ~~perhaps~~ integration of available and developing governmental agency (federal, state and local) and university environmental data bases ~~basis~~ and information systems so that informed, coordinated decisions may be made by individuals and policy makers at all levels. This system should support a strong enforcement programs that captures the true costs of environmental violations and anticipates and avoids new prevents future damage. ~~This system would also allow for the avoidance of the creation of environmental problems.~~

Citizens view information on the conditions of resources as vitally important to resource protection and enhancement and environmental planning. Effective environmental monitoring depends upon accurate and comprehensive information. ~~Closely related to monitoring is information resources.~~ Many believed that it is getting harder, rather than easier, to access information on pollution discharges and environmental conditions, even with advancing computer technology. Computer based information resources have been and are being developed by various state and local agencies as well as at state universities. Coordination and integration of these efforts could produce an excellent tool for resource managers and planners. Speakers have emphasized that information is the key to ~~adequate~~ planning. Sharing information among citizens, all levels of government, and regulators is important so that informed, coordinated decisions may be made.

4. Land use and development.

Virginia's citizens desire coordination and planning in land use and

development decisions and in the expenditure of tax dollars so that the loss of open spaces (including agricultural land, forest lands, natural areas, potential park and recreational areas), the impacts on air and water quality and the impacts on the character of communities are minimized.

In all areas of the Commonwealth, citizens promoted coordination (between local governments and between local governments and state government) and planning for decisions and development that would minimize the loss of open space and impacts on air and water quality. The preservation of open space was of particular concern ~~importance~~ in areas that rely on open spaces for tourist and recreational contributions to the local economy. Citizens also desire to protect "greenfields" and redevelop "brownfields" as a way to revitalize urban areas.

Transportation issues were also raised in the context of land use and development. Many equated roads with fostering sprawl development and urged planning of transportation systems so that development does not occur where it will have a negative impact on the environment and open spaces. They also urged that roads be developed in a manner sensitive to the area through which they pass. Mass transit was also promoted to reduce auto use and to foster growth around transit systems rather than along extensive highway systems.

Concern was expressed that local governments do not have sufficient tools at their disposal to control growth and that they do not always use the ones they do have effectively ~~to protect water quality~~. In addition, many local governments may not have the needed expertise or access to resources necessary to conduct long-term planning. Citizens urged that planning, land use, and development tools that are now lacking be provided to local governments.

5. Open space and recreational needs.

Virginia's citizens desire the preservation and support of open spaces for environmental, health, recreational and economic purposes.

Open spaces and low impact outdoor recreational opportunities are very popular among Virginia's citizens. This popularity reflects ~~is based on~~ aesthetic values, the increasing desire of individuals for outdoor recreational experiences, environmental benefits, and the economic value that tourism and recreation bring to areas. This has been well documented by the Commission's ~~our~~ parks and open space subcommittee. In fact last year the Commission ~~this full committee~~ found that:

(i) there needs to be a long-term, stable, and adequate funding source for the park system and open space conservation programs;

(ii) the economic benefits of parks and open spaces need to be better quantified

and taken into consideration in long-term planning and funding decisions (Benefits often overlooked include those related to watershed protection, air quality, recreational opportunities for adjacent communities, and human health. The costs avoided for mitigation of water and air pollution and health care need to be recognized as well.); and

(iii) the park system should not be looked at in isolation, but should be considered a part of a larger open space system. That larger system includes such areas as federal, regional and local parks; natural heritage areas; wildlife management areas; scenic byways; private properties under conservation easements; and agricultural and forestal districts.

Concerns exist that urban sprawl ~~suburbanization~~ is fragmenting Virginia's open space, reducing options for the acquisition of public recreation areas and destroying wildlife habitats and migratory corridors. Citizens believe the Commonwealth has a critical role to play in investing in new parks and preserving open spaces. They urged additional funding mechanisms to acquire open spaces now, rather than later, for current citizens and future generations.

6. Waste management.

Virginia's citizens desire the protection of human health and the ~~environmental~~ through strong regulatory programs that reduce waste streams, promote pollution prevention and take advantage of economic opportunities of waste streams that do exist. Citizens also want to assure that waste sites and similarly high impact facilities ~~pollution sources~~ are located based on economics, objective and accurate data ~~accurate science~~ and need rather than race, economic disadvantage or the low political clout of a potential site community.

Comments on ~~in~~ this topic fell into a number of areas including: (i) concern over the amount of out-of-state waste entering Virginia for disposal; (ii) the potential for landfill failure; (iii) the responsibilities and financial needs of localities in meeting solid waste recycling and disposal requirements and commitments; (iv) the financial and environmental benefits ~~waste disposal cost reductions, and landfill space benefits~~ of recycling and waste reduction efforts.

The solid waste subcommittee is examining many of the issues relative to solid waste transport and disposal in the C ~~commonwealth~~ and will be making specific ~~coming forth with~~ proposals January 5, 1999.

7. Governance issues such as the structure for natural resources management and protection, and policy development and implementation.

Virginia's citizens desire a governance structure that promotes and

protects a clean productive environment. Citizens do not want the concept of a "clean productive environment" to be a code for governmental policies which promote development and merely give lip service to the environment.

To achieve this, policy makers and those who implement them will need to heed the desires of Virginia's citizens noted above. **It is critical that all agencies of the Commonwealth undertake a comprehensive and ongoing review of the extent to which their policies and programs (including budgets, expenditures and specific projects) contribute to or detract from the vision of a clean and productive environment in which open space and natural resources are preserved and sprawl and other wasteful patterns of development or resource use are discouraged.**

There will be many facets to this effort, but central will have to be programs and policies that:

✓ integrate into all levels of governmental activity, decision making and expenditures of funds a recognition of the economic, cultural and health benefits of a clean environment and the impacts if those activities, decisions and expenditures upon those benefits;-

✓ protect natural resources to the full extent required to promote and protect a clean productive environment while allowing for innovations in pollution control and that promote pollution prevention;-

✓ create a lead state role in developing, acquiring, coordinating and making available funding, studies, technical assistance and information resources to provide: (i) analysis of the conditions of the Commonwealth's natural resources; (ii) means for innovative approaches to resource management and protection; (iii) coordination, planning and policy assistance, particularly to localities without sufficient financial and staff resources; and (iv) provide a mechanism for identifying environmental **issues** ~~problems~~ before they become significant problems and finding solutions to them;-

✓ are based upon cooperation, consensus and deliberation, and promote regional approaches;-

✓ **view** ~~look at~~ **resources in terms of natural** ~~based on resource~~ boundaries and resource interactions rather than political boundaries;-

✓ provide planning and thus predictability.

✓ reward conservation and pollution prevention.

✓ taking advantage of federal programs that help Virginia in its efforts.

✓ incorporate an educational element that fosters awareness of the impact of human activities on natural resources and human health.

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Appendix Number 10

CHAPTER 968

An Act to amend the Code of Virginia by adding in Chapter 3 of Title 58.1 an article numbered 20.1, consisting of sections numbered 58.1-510 through 58.1-513, relating to tax credits for the preservation of land.

[S 1218]

Approved April 7, 1999

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 58.1 an article numbered 20.1, consisting of sections numbered 58.1-510 through 58.1-513, as follows:

Article 20.1.

Virginia Land Conservation Incentives Act of 1999.

§58.1-510. Purpose.

The purpose of this act is to supplement existing land conservation programs to further encourage the preservation and sustainability of Virginia's unique natural resources, wildlife habitats, open spaces and forested resources.

§58.1-511. Definitions.

For the purposes of the article:

"Interest in real property" means any right in real property, including access thereto or improvements thereon, or water, including but not limited to a fee simple easement, including conservation easement, provided such interest complies with the requirements of the U.S. Internal Revenue Code § 170 (h), partial interest, mineral right, remainder or future interest, or other interest or right in real property.

"Land" or "lands" means real property, with or without improvements thereon; rights-of-way, water and riparian rights; easements; privileges and all other rights or interests of any land or description in, relating to or connected with real property.

"Public or Private Conservation Agency" means any Virginia governmental body, or any private not-for-profit charitable corporation or trust authorized to do business in the Commonwealth and organized and operated for natural resources, land conservation or historic preservation purposes, and having tax-exempt status as a public charity under the U.S. Internal Revenue Code of 1986, as amended, and having the power to acquire, hold and maintain land and/or interests in land for such purposes.

§58.1-512. Land preservation tax credits for individuals and corporations.

A. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§58.1-320 and 58.1-400, an amount equal to fifty percent of the fair market value of any land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation in perpetuity by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. The fair market value of qualified donations made under this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions.

B. 1. The amount of the credit that may be claimed by a taxpayer shall not exceed \$50,000 for 2000 taxable years, \$75,000 for 2001 taxable years, and \$100,00 for 2002 taxable years and thereafter. In

addition, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit which is unused in any one taxable year may be carried over for a maximum of five consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. *Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170 (h) of the U.S. Internal Revenue Code of 1986, as amended. Dedications of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations under this act.*

3. *Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501 (c) (3) of the U.S. Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509 (a) (2) or (ii) meets the requirements of § 509 (a) (3) and is controlled by an organization described in § 509 (a) (2).*


4. *The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity.*

§58.1-513. Limitations.

A. *Any taxpayer claiming a tax credit under this act shall not claim a credit under any similar Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under subsection C of §58.1-322 shall be allowed for three years following the year in which the credit is taken.*

B. *Any tax credits which arise under this act from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability corporation or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder and/or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder and/or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager partner, shareholder and/or beneficiary for the same donation.*

2. That the provisions of this act shall be effective for taxable years beginning on and after January 1, 2000, unless one or more of the events listed in subsection C of §58.1-3524 has occurred prior to such date. If any one of these events occurs before January 1, 2000, this act shall not become effective for taxable years beginning on and after January 1, 2000, but shall instead become effective for taxable years beginning on and after January 1 of the first year thereafter when none of the events listed in subsection C of §58.1-3524 have occurred during the immediately preceding calendar year.

 [Go to \(General Assembly Home\)](#)

Appendix Number 11

CHAPTER 503

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 64.1 a section numbered 64.1-57.3, relating to personal representatives and trustees.

[S 1220]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 64.1 a section numbered 64.1-57.3 as follows:

§64.1-57.3. Power granted to personal representatives and trustees to donate conservation easements.

Personal representatives and trustees, whether heretofore or hereafter qualified or appointed, are hereby granted the power to donate a conservation easement as provided in the Virginia Conservation Easement Act (§10.1-1009 et seq.) or the Open-Space Land Act (§10.1-1700 et seq.) on any real property of their decedents and settlors, in order to obtain the benefit of the estate tax exclusion allowed under § 2031(c) of the United States Internal Revenue Code of 1986, as amended, provided they have the written consent of all of the heirs, beneficiaries and devisees whose interests are affected thereby. Upon petition of the personal representative or trustee, the circuit court may give consent on behalf of any unborn, unascertained or incapacitated heirs, beneficiaries or devisees whose interests are affected thereby after determining that (i) the donation of the conservation easement will not adversely affect such heirs, beneficiaries or devisees or (ii) it is more likely than not that such heirs, beneficiaries or devisees would consent if they were before the court and capable of giving consent. A guardian ad litem shall be appointed to represent the interests of any unborn, unascertained or incapacitated persons.

 [Go to \(General Assembly Home\)](#)

Appendix Number 12

CHAPTER 339

An Act to amend and reenact §§ 58.1-322 and 58.1-402 of the Code of Virginia, relating to capital gains taxation.

[S 1222]

Approved March 23, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§~~58.1-322~~ and ~~58.1-402~~ of the Code of Virginia are amended and reenacted as follows:

§58.1-322. Virginia taxable income of residents.

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications specified in this section.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes which is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code;

5. through 7. [Repealed.]

8. For taxable years beginning on and after January 1, 1990, and before January 1, 1994, any amount of self-employment tax deduction under § 164 (f) of the Internal Revenue Code; and

9. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code.

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. [Repealed.]

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. A deduction equal to the amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age sixty-five who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of the Internal Revenue Code; however, any person who claims a subtraction under subdivision 5 of subsection D of this section may not also claim a deduction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280 C (a) of the Internal Revenue Code.

7. Any amount included therein which is foreign source income as defined in §58.1-302.

8. For taxable years beginning after December 31, 1983, the available portion of total excess cost recovery as defined in former §58.1-323 B and for taxable years beginning after December 31, 1987, the excess cost recovery amount specified in §58.1-323.1 B.

9. [Expired.]

10. Any amount included therein less than \$600 from a prize awarded by the State Lottery Department.

11. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from thirty-nine calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified herein.

12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

13. [Repealed.]

14. (Expires for taxable years beginning on and after January 1, 2004.) The amount of any qualified agricultural contribution as determined in §58.1-322.2.

15. [Repealed.]

16. The amounts of self-employment tax required to be added in computing Virginia taxable income for taxable years beginning on and after January 1, 1990, but before January 1, 1994, pursuant to subdivision B 8 of this section, as follows:

a. For taxable years beginning on and after January 1, 1994, and before January 1, 1995, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1990, and before January 1, 1991;

b. For taxable years beginning on and after January 1, 1995, and before January 1, 1996, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1991, and before January 1, 1992;

c. For taxable years beginning on and after January 1, 1996, and before January 1, 1997, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1992, and before January 1, 1993;

d. For taxable years beginning on and after January 1, 1997, and before January 1, 1998, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1993, and before January 1, 1994, and any amount of self-employment tax required to be added back for taxable years beginning on and after January 1, 1990, and before January 1, 1994, which was not subtracted in those taxable years.

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280 C (c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not otherwise subtracted under this subsection, earned for any month during any part of which such member performed military service in any part of the former Yugoslavia, including the air space above such location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer completes such service.

19. For taxable years beginning on and after January 1, 1996, any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

20. For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract with the Virginia Higher Education Tuition Trust Fund, created pursuant to Chapter 4.9 (§23-38.75 et seq.) of Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in §58.1-3230, for a period of time not less than thirty years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

D. In computing Virginia taxable income there shall be deducted from federal adjusted gross income:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the

Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of eighteen cents per mile; or

b. Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987; \$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; and \$5,000 for married persons (~~one-half of such amounts~~ in the case of a married individual filing a separate return); and \$3,000 for single individuals for taxable years beginning on and after January 1, 1989; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$700 for taxable years beginning January 1, 1987, through December 31, 1987, and \$800 for taxable years beginning on and after January 1, 1988, for each personal exemption allowable to the taxpayer for federal income tax purposes. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption.

b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The additional deduction for blind or aged taxpayers allowed under this subdivision and the additional personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in Chapter 10 (§63.1-195 et seq.) of Title 63.1, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. Effective for all taxable years beginning on and after January 1, 1990, a deduction in the amount of \$12,000 for taxpayers age sixty-five or older, or \$6,000 for taxpayers age sixty-two through sixty-four, less any amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement Act and treated for federal income tax purposes as equivalent to social security. Beginning in taxable year 1992 through taxable year 1993, the \$12,000 and \$6,000 deduction amounts shall be indexed annually in each such taxable year by an amount equivalent to the most recent percentage increase in the social security wage base.

Effective for the taxable year beginning January 1, 1994, a deduction in the amount of \$12,944 for taxpayers age sixty-five or older, or \$6,472 for taxpayers age sixty-two through sixty-four. Effective for the taxable year beginning January 1, 1995, a deduction in the amount of \$10,000 for taxpayers age sixty-five or older, or \$5,000 for taxpayers age sixty-two through sixty-four. Effective for all taxable years beginning on or after January 1, 1996, a deduction in the amount of \$12,000 for taxpayers age sixty-five or older, or \$6,000 for taxpayers age sixty-two through sixty-four.

Beginning in taxable year 1995, ~~the deduction~~ deductions under this subdivision shall not be reduced by any amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement Act and treated for federal income tax purposes as equivalent to social security.

6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. (Effective for taxable years beginning on and after January 1, 1996.) A deduction shall be allowed

to the purchaser for the amount paid during the taxable year for a prepaid tuition contract entered into with the Virginia Higher Education Tuition Trust Fund, pursuant to Chapter 4.9 (§23-38.75 et seq.) of Title 23. The amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per prepaid tuition contract. No deduction shall be allowed pursuant to this section if such payments are deducted on the purchaser's federal income tax return. The deduction allowed under this section shall not be transferable. If the purchase price exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price has been fully deducted; however, in no event shall the amount deducted in any taxable year exceed \$2,000 per contract. Notwithstanding the statute of limitations on assessments contained in §58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship.

b. (Effective for taxable years beginning on and after January 1, 1996.) The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

E. There shall be added to or subtracted from federal adjusted gross income, (as the case may be) the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under §58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

§58.1-402. Virginia taxable income.

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C and D.

For a regulated investment company and a real estate investment trust such term shall mean the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C and D.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

<i>Waste Tires (Continued)</i>	CPRWMA	CVWMA	NRRA	RSWA	RVRA	SPSA	VPPSA
<i>Service paid for by</i>	Varies ^{xviii}	Bill direct from contractor to locality	Tire tip fee	Tire tip fee	Tire tip fee	Tire tip fee, revenues	VPPSA pays contractor and bills localities
<i>Fees</i>	Grant ^{xviii}	Bill direct from contractor to locality	\$48/ton plus \$1/ tire	\$85/ton	\$55/ton plus \$2 per tire unless tire is split	\$.75/passenger tire	\$.69/tire passed on to locality
Education	No	Yes	No ^{xlix}	Yes	Yes	Yes	Yes
<i>Contract or in House</i>		In house ^l		In house	Both ^h	In house	In house
<i>Members participating</i>		13/13		3/3	3/3	8/8	10/10
<i>Service paid for by</i>		Curbside recycling \$.10 "PR" fee, assessments		Solid waste tip fee revenue, interest, state grant	Solid waste tip fee revenues	Revenues	Administrative budget
<i>Fees</i>		No charge		No charge	No charge	No charge	Administration fee add on of 4% for contracted and 8% in house services

CPRWMA: Cumberland Plateau Regional Waste Management Authority. CVWMA: Central Virginia Waste Management Authority. NRRA: New River Resource Authority.
RSWA: Rivanna Solid Waste Authority. RVRA: Roanoke Valley Resource Authority.
SPSA: Southeastern Public Service Authority. VPPSA: Virginia Peninsulas Public Service Authority.

15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§22.1-175.1 et seq.) of Title 22.1.

16. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in §58.1-3230, for a period of time not less than thirty years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

D. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.



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Appendix Number 13

CHAPTER 162

An Act to amend and reenact § 58.1-3245.1 of the Code of Virginia, relating to tax increment financing.
[S 1221]

Approved March 17, 1999

Be it enacted by the General Assembly of Virginia:

1. That §58.1-3245.1 of the Code of Virginia is amended and reenacted as follows:

§58.1-3245.1. Blighted areas constitute **public danger, promotion of economic development.**

It is hereby found and declared that blighted areas exist in the Commonwealth, and these areas impair economic values and tax revenues, and endanger the health, safety, morals and welfare of the citizens because commercial, residential and industrial structures are subject to dilapidation, deterioration, inadequate ventilation, and inadequate public utilities. It is also found to be in the public interest to promote the commerce and prosperity of the citizens of the Commonwealth by providing public facilities, including but not limited to, roads, water, sewers, ~~and~~ parks, and real estate devoted to open-space use as that term is defined in §58.1-3230 in development project areas to encourage the development of such areas. Local governments should encourage private investment in development project areas in order to enhance the real estate tax base of such areas and, where appropriate, to eliminate blighted conditions. It is essential to the public interest that governing bodies have authority to finance development project costs by using real estate tax increments to encourage private investment in development project areas.



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Appendix Number 14

CHAPTER 502

An Act to amend and reenact § 15.2-5601 of the Code of Virginia, relating to public recreational facilities authorities.

[S 1219]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That §15.2-5601 of the Code of Virginia is amended and reenacted as follows:

§15.2-5601. Definitions.

As used in this chapter, the following words and terms shall mean unless the context indicates otherwise:

"Authority" means an authority created under the provisions of §15.2-5602 or, if any such authority shall be abolished the entity succeeding to the principal functions thereof.

"Bonds" or "revenue bonds" means bonds, notes, certificates or other evidences of borrowing.

"Cost" means, as applied to any project, all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a project or portion thereof, including the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for such construction, additions or expansion, the cost of demolishing or removing any building or structure on land so acquired, including the cost of acquiring any lands to which such building or structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during such construction, and during the construction of any addition or expansion, and if deemed advisable by the authority, for a period not exceeding one year after completion of such construction, addition or expansion, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications and other engineering and architectural services, legal expenses, studies, estimates of cost and revenues, administrative expenses and such other expenses as may be necessary or incident to the construction of the project, and of such subsequent additions thereto or expansion thereof, the cost of financing such construction, additions or expansion and placing the project and such additions or expansion in operation.

"Federal agency" means the United States of America and any department, bureau, agency or instrumentality thereof.

"Project" or "projects" means any one or more of the following: auditorium, theater, concert or entertainment hall, coliseum, convention center, arena, field house, stadium, fairground, campground, *land conservation project, including but not limited to the holding of conservation easements*, sports facilities, including racetracks, amusement park or center, garden, park, zoo and museum, as such terms are generally used, and parking, transportation, utility and restaurant facilities and concessions in connection with any of the foregoing, including any and all buildings, structures, approaches, roadways, and other facilities and appurtenances thereto which the authority may deem necessary or desirable, together with all property, rights, easements and interests which may be acquired by the authority for the construction, improvement and operation of any of the foregoing. The transportation facilities hereinabove mentioned may be principally for the use and benefit of the inhabitants of the locality creating the authority so long as they are incidentally related to the acquisition and construction of any of the foregoing and may be financed contemporaneously with, prior to or subsequent to the acquisition and construction of any of the foregoing.

**FINANCIAL NEEDS FOR
VIRGINIA LAND CONSERVATION**

1. NATURAL AREAS -

Of the 1,080 conservation sites identified to date by the Virginia Department of Conservation and Recreation's Natural Heritage Program, 692 are considered globally significant. Of the 692 globally significant sites, 39 % are protected and 61% or 425 remain unprotected. The following are sites from the top of the priority list.

South River Wetlands, Augusta County	\$1,000,000
Shenandoah Valley Pond Complex, Augusta/Rockingham Counties	\$900,000
Culpeper Flatwoods, Culpeper County	\$2,000,000
Nokesville Barrens, Fauquier County/Prince William County	\$600,000
Rocky Mount, Franklin County	\$80,000
Grayson County Wetlands, Grayson County	\$100,000
Difficult Creek, Halifax County	\$320,000
Antioch Pines Natural Area Preserve addition, Isle of Wight County	\$750,000
Brunswick Flatrocks, Brunswick County	\$40,000
Wetland Complex, Mathews County	\$400,000
Bethel Beach Natural Area Preserve addition, Mathews County	\$160,000
Montgomery County Dolomite, Montgomery County	\$600,000
Bannister River, Pittsylvania County	\$100,000
Lummis Flatwoods, Suffolk	\$300,000
Blackwater River Natural Area Preserve addition, Surry County	\$1,200,000
Chub Sandhill Natural Area Preserve addition, Sussex County	\$120,000
Sussex Forest, Sussex County	\$500,000
North Landing River Natural Area Preserve addition, Virginia Beach	\$480,000
Front Royal Karst Lands, Warren County	\$400,000
Clinch River Forests, Russell, Scott, Wise Counties	\$1,600,000
TOTAL	\$11,650,000

Source: DCR and The Nature Conservancy, Virginia Chapter

Note: figures are for land acquisition only, and do not consider public access development costs. December 1998.

2. STATE PARKS -

Listed below are the needs for inholdings in existing state parks and does not consider the need for acquisitions for additional state parks. There is currently no funding available to DCR to purchase these inholdings.

	Parcels	Acres	Estimated Value
District I			
Kiptopeke	3	6	\$150,000
District II			
Belle Isle	7	154.29	\$844,200
Caledon	1	2	\$10,000
Westmoreland	2	2.5	\$500,000
District III			
Leesylvania	1	1.28	\$430,000
Andy	3	414.1	\$1,369,500
Guest/Shenandoah			
District IV			
James River	3	69	\$295,000
Pocahontas	4 major	1,019.1	\$5,263,828
	24 peripheral	53.97	\$3,000,000
Twin Lakes	1	15.67	\$32,780
District V			
Claytor Lake	80 lots	34.61	\$1,468,500
New River Trail	2 mi. break in trail	14.43	\$32,000
District VI			
Hungry Mother	26	27	\$975,000
Natural Tunnel	2	10.2	\$5,000
TOTAL			\$14,375,808

Source: DCR, December 1998

3. STATE FORESTS -

Listed below are the needs for existing state forests and an example of an opportunity to create a new state forest in Chesapeake. These opportunities are continually brought to the attention of the Dept. of Forestry and without a reliable funding source cannot be taken advantage of. There is currently no funding

available to DOF to pursue land acquisitions or the purchase of easements for forest preservation or forest management.

Buckingham State Forest	240 acres	\$300/acre	\$72,000
	1,134 acres	\$400/acre	\$453,600
Cumberland State Forest	500 acres	\$400/acre	\$200,000
City of Chesapeake	1,000 acres	\$1,000/acre	\$1,000,000
TOTAL			\$1,725,600

Source: VA Dept. of Forestry, 1998

4. HISTORIC RESOURCES

There are twelve rural historic districts in Virginia ranging in size from 1,092 acres (Powhatan RHD in King George County) to 31,200 acres (Madison-Barbour RHD in Orange County). In all they represent 176,101 acres of land that has been surveyed and found to be of state and national historic significance. A best estimate as to the cost of placing open-space and preservation easements on the districts is \$1.01 billion. Some of these districts do currently contain easements (historic and open-space) -- but the majority of land is still not protected. The land is also becoming more valuable and at risk of development due to the location of these districts (half are in the Piedmont of Virginia). The cost of protecting the average size district - approximately 15,000 acres, would be \$8.7 million.

Civil war battlefield protection: Currently there is a need for \$15 million to finish projects already in the pipeline but not funded for 12 battlefields in Virginia. The majority of these battlefields are in the Richmond area (most expensive due to high land costs), northern Shenandoah Valley and Fredericksburg area.

Source: Preservation Alliance of Virginia

5. AGRICULTURAL LAND

Development pressures and the resulting land values vary significantly from locality to locality. According to the VA Agricultural Statistics Bulletin, in 1997 there were 8.5 million acres in agricultural use, with an average value of \$1,925 per acre. Based on a calculation of the development rights purchase value of 30% of the FMV, the average per acre PDR cost would be \$578 per acre (30% x \$1925=\$578/ac).

The cost for purchasing easements (PDRs) for:

all remaining ag acreage (8.5 million ac.)-	\$4.9 billion
75% of remaining acreage-	\$3.7 billion
50%“	\$2.45 billion

Local examples:

Virginia Beach launched a PDR program in 1997 with the goal of protecting 20,000 of its remaining 32,000 acres of agricultural land at an estimated cost of \$90 million (\$4,500 per acre).

Albemarle County is currently studying the feasibility of establishing a PDR program to protect a portion of its remaining 400,000 acres of farmland. The County's Acquisition of Conservation Easement Committee has estimated that the average per acre PDR value will be approximately \$1,050. To conserve half of the County's remaining farmland through PDRs would cost approximately \$210 million.

Appendix Number 16

CHAPTER 900

An Act to amend and reenact §§ 2.1-1.5, 10.1-202, 10.1-1017, 10.1-1018, 10.1-1020, 10.1-1021 and 10.1-2213 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1022.1, relating to the Virginia Land Conservation Foundation.

[S 1304]

Approved March 29, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 10.1-202, 10.1-1017, 10.1-1018, 10.1-1020, 10.1-1021 and 10.1-2213 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1022.1 as follows:

§2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of §2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.

Medical College of Virginia Hospitals Authority.

Richmond Eye and Ear Hospital Authority.

Small Business Financing Authority.

Virginia Agriculture Development Authority.

Virginia College Building Authority.

Virginia Economic Development Partnership.

Virginia Housing Development Authority.

Virginia Information Providers Network Authority.

Virginia Innovative Technology Authority.

Virginia Port Authority.

Virginia Public Building Authority.

Virginia Public School Authority.

Virginia Resources Authority.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.

Board of Commissioners, Virginia Port Authority.

Board of Directors, Assistive Technology Loan Fund Authority.

Board of Directors, Medical College of Virginia Hospitals Authority.

Board of Directors, Richmond Eye and Ear Hospital Authority.

Board of Directors, Small Business Financing Authority.

Board of Directors, Virginia Economic Development Partnership.

Board of Directors, Virginia Innovative Technology Authority.

Board of Directors, Virginia Resources Authority.

Board of Regents, Gunston Hall Plantation.

Board of Regents, James Monroe Memorial Law Office and Library.

Board of Trustees, Family and Children's Trust Fund.

Board of Trustees, Frontier Culture Museum of Virginia.

Board of Trustees, Jamestown-Yorktown Foundation.

Board of Trustees, Miller School of Albemarle.

Board of Trustees, Rural Virginia Development Foundation.

Board of Trustees, The Science Museum of Virginia.

Board of Trustees, Virginia Museum of Fine Arts.

Board of Trustees, Virginia Museum of Natural History.

Board of Trustees, Virginia Outdoor Foundation.

Board of Visitors, Christopher Newport University.

Board of Visitors, George Mason University.

Board of Visitors, Gunston Hall Plantation.

Board of Visitors, James Madison University.

Board of Visitors, Longwood College.

Board of Visitors, Mary Washington College.

Board of Visitors, Norfolk State University.

Board of Visitors, Old Dominion University.

Board of Visitors, Radford University.

Board of Visitors, The College of William and Mary in Virginia.

Board of Visitors to Mount Vernon.

Board of Visitors, University of Virginia.
Board of Visitors, Virginia Commonwealth University.
Board of Visitors, Virginia Military Institute.
Board of Visitors, Virginia Polytechnic Institute and State University.
Board of Visitors, Virginia State University.
Commonwealth Health Research Board.
Governing Board, Virginia College Building Authority.
Governing Board, Virginia Public School Authority.
Library Board, The Library of Virginia.
Motor Vehicle Dealer Board.
State Board for Community Colleges, Virginia Community College System.
Virginia-Israel Advisory Board.
(Effective until July 1, 2002) Wireless E-911 Service Board.

Commissions

Advisory Commission on the Virginia Schools for the Deaf and the Blind.
Alexandria Historical Restoration and Preservation Commission.
Charitable Gaming Commission.
Chesapeake Bay Bridge and Tunnel Commission.
Hampton Roads Sanitation District Commission.

Districts

Chesapeake Bay Bridge and Tunnel District.
Hampton Roads Sanitation District.

Educational Institutions

Christopher Newport University.
Frontier Culture Museum of Virginia.
George Mason University.
James Madison University.
Jamestown-Yorktown Foundation.
Longwood College.

Mary Washington College.
Miller School of Albemarle.
Norfolk State University.
Old Dominion University.
Radford University.
The College of William and Mary in Virginia.
The Library of Virginia.
The Science Museum of Virginia.
University of Virginia.
Virginia Commonwealth University.
Virginia Community College System.
Virginia Military Institute.
Virginia Museum of Fine Arts.
Virginia Polytechnic Institute and State University.
Virginia State University.

Foundations

Chippokes Plantation Farm Foundation.
Rural Virginia Development Foundation.
Virginia Arts Foundation.
Virginia *Land* Conservation ~~and Recreation~~ Foundation.
Virginia Historic Preservation Foundation.
Virginia Outdoor Foundation.

Museum

Virginia Museum of Natural History.

Partnership

A. L. Philpott Manufacturing Extension Partnership.

Plantation

Gunston Hall Plantation.

§10.1-202. Gifts and funds for state parks to constitute Conservation Resources Fund.

Gifts of money, entrance fees, fees from contractor-operated concessions, and all funds accruing from, on account of, or to the use of state parks acquired or held by the Department shall constitute the Conservation Resources Fund. The Fund shall be under the direction and control of the Director and may be expended for the conservation, development, maintenance, and operations of state parks acquired or held by the Department. However, expenditures from the Fund for operation of state parks shall not exceed, in any fiscal year, an amount equal to twenty-five percent of the revenues deposited into the Fund from fees and charges paid by visitors to state parks. The remainder of the revenues deposited into the Fund from fees and charges paid by visitors to state parks shall be expended for the conservation and development of state parks. Revenues generated from state park concessions operated by the Department shall be deposited into a separate special fund for use in operating such concessions. Unexpended portions of the Fund shall not revert to the state treasury at the close of any fiscal year unless specified by an act of the General Assembly. The Fund shall not include any gifts of money to the Virginia Land Conservation and Recreation Foundation or other funds deposited in the Virginia Land Conservation and Recreation Fund.

The proceeds from the sales of surplus property shall be used exclusively for the acquisition and development of state parks.

CHAPTER 10.2.
VIRGINIA LAND CONSERVATION AND RECREATION FOUNDATION.

§10.1-1017. Foundation created.

There is hereby created the Virginia Land Conservation and Recreation Foundation, hereinafter referred to as the Foundation, a body politic and corporate to have such powers and duties as hereinafter provided.

§10.1-1018. Virginia Land Conservation Board of Trustees.

A. The Foundation shall be governed and administered by a Board of Trustees, consisting of the Secretary of Natural Resources, the State Treasurer or his designee, and seven trustees from the Commonwealth at large. Three of the trustees-at-large shall be appointed by the Governor, subject to confirmation by the General Assembly; two shall be appointed by the Speaker of the House of Delegates; and two shall be appointed by the Senate Committee on Privileges and Elections. The trustees-at-large shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and ~~conservancy~~ conservation, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, *farming, farmland preservation*, fish and wildlife management, historic preservation, and outdoor recreation. The trustees-at-large shall initially be appointed for terms of office as follows: two for a term of two years, two for a term of three years, and three for a term of four years. Appointments thereafter shall be made for four-year terms. No trustee-at-large shall be eligible to serve more than two consecutive four-year terms. All trustees-at-large shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office. The terms of the Secretary of Natural Resources and the State Treasurer or ~~his their designee~~ *designees* shall be coincident with that of the Governor. Appointments to fill vacancies shall be made for the unexpired term.

B. The Secretary of Natural Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The trustees-at-large shall elect a vice-chairman annually from the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman.

C. Trustees of the Foundation shall receive no compensation for their services but shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Foundation.

D. The chairman of the Board, the State Treasurer, and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

§10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.

A. The Foundation shall ~~establish, administer, manage~~, including the creation of reserves, and make expenditures and allocations from a special, nonreverting fund in the state treasury to be known as the Virginia *Land Conservation and Recreation* Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the ~~purpose of purchasing~~ purposes of:

1. *Purchasing* fee simple title to or other rights, interests or privileges in property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, state forest lands, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, *agricultural and forestal lands* and open space; and

2. *Providing matching grants to holders as defined in §10.1-1009 and public bodies as defined in §10.1-1700, for purchasing fee simple title to or other rights, interests or privileges in property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, agricultural and forestal lands and open space.*

B. The Fund shall consist of general fund moneys and gifts, endowments or grants from the United States government, its agencies and instrumentalities, and funds from any other available sources, public or private. Such moneys, gifts, endowments, grants or funds from other sources may be either restricted or unrestricted. For the purposes of this chapter, "restricted funds" shall mean those funds received by the Board to which specific conditions apply; "restricted funds" shall include, but not be limited to, general obligation bond moneys and conditional gifts. "Unrestricted funds" shall mean those received by the Foundation to which no specific conditions apply; "unrestricted funds" shall include, but not be limited to, moneys appropriated to the Fund by the General Assembly to which no specific conditions are attached and unconditional gifts.

C. *All unrestricted funds in the Fund shall be allocated as follows: (i) twenty-five percent to natural area protection; (ii) twenty-five percent to open spaces and parks; (iii) twenty-five percent to farmlands and forest preservation; and (iv) twenty-five percent to historic area preservation.*

~~C.~~ D. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not revert to the general fund. Interest earned on moneys received by the Fund other than bond proceeds shall remain in the Fund and be credited to it.

~~D.~~ E. A portion of the Fund, not to exceed twenty percent of the annual balance of unrestricted funds, may be used to develop properties purchased in fee simple with the assets of the Fund for public use including, but not limited to, development of trails, parking areas, infrastructure, and interpretive projects or to conduct environmental assessments or other preliminary evaluations of properties prior to the acquisition of any property interest.

~~E.~~ F. The State Treasurer shall maintain the restricted funds and the unrestricted funds in separate accounts.

§10.1-1021. Powers of the Foundation.

In order to carry out its purposes, the Foundation shall have the following powers and duties:

1. To prepare a comprehensive plan that recognizes and seeks to implement all of the purposes for which the Foundation is created. In preparing this plan, the Foundation shall:

a. Develop a strategic plan for the expenditure of unrestricted moneys received by the Fund. In developing a strategic plan for expending unrestricted moneys from the Fund, the Board of Trustees shall establish criteria for the expenditure of such moneys. The plan shall take into account the purposes for which restricted funds have been expended or earmarked. Such criteria may include:

- (i) The ecological, outdoor recreational, ~~and historic~~, agricultural and forestal value of the property;
- (ii) An assessment of market values;
- (iii) Consistency with local comprehensive plans;
- (iv) Geographical balance of properties and interests in properties to be purchased;
- (v) Availability of public and private matching funds to assist in the purchase;
- (vi) Imminent danger of loss of natural, outdoor, recreational or historic attributes of a significant portion of the land;
- (vii) Economic value to the locality and region attributable to the purchase; and
- (viii) Advisory opinions from local governments, state agencies or others;

b. Develop an inventory of those properties in which the Commonwealth holds a legal interest for the purpose set forth in subsection A of § 10.1-1020;

c. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following: (i) ~~1989~~ Virginia Outdoors Plan, (ii) Virginia Natural Heritage Plan, (iii) Virginia Institute of Marine Science Inventory, (iv) Virginia Joint Venture Board of the North American Waterfowl Management Plan, and (v) Virginia Board of Historic Resources Inventory; and

d. Maintain the inventory and needs assessment on an annual basis.

2. To expend directly or allocate the funds received by the Foundation to the appropriate state agencies for the purpose of acquiring those properties or property interests selected by the Board of Trustees. In the case of restricted funds the Board's powers shall be limited by the provisions of §10.1-1022.

3. To submit a report biennially on the status of the Fund to the Governor and the General Assembly including, but not limited to, (i) implementation of its strategic plan, (ii) projects under consideration for acquisition with Fund moneys and (iii) expenditures from the Fund.

4. To enter into contracts and agreements, as approved by the Attorney General, to accomplish the purposes of the Foundation.

5. To receive and expend gifts, grants and donations from whatever source to further the purposes set forth in subsection B of §10.1-1020.

6. To do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation and Fund are established.

§10.1-1022.1. *Expenditure of funds for natural area protection.*

A. No matching grant shall be made from the Fund to any holder or public body for purchasing an interest in land for the protection of a natural area unless:

- 1. The holder or public body has been in existence and operating in Virginia for more than five years;*

2. The holder or public body has demonstrated the necessary commitment and financial capability to manage the property; and

3. The Department has, after reviewing the grant application as provided in subsection B, recommended that the grant be made.

B. Natural area grant applications shall be submitted to the Foundation, which shall forward the application to the Department. The application shall include a budget for the proposed purchase and for the management of the property. The Department shall consider the following in making its recommendation on whether the grant should be made:

1. Whether the project will make a significant contribution to the protection of habitats for rare, threatened, or endangered plant or animal species, rare or state-significant natural communities, other ecological resources, or natural areas of Virginia;

2. Whether the area addresses a protection need identified in the Virginia Natural Heritage Plan;

3. The rarity of the elements targeted for conservation;

4. The size and viability of the site; and

5. Whether the holder or public body has the capability to protect the site from short-term and long-term stresses to the area.

C. Matching grant funds provided pursuant to this section shall be expended by the holder or public body within two years of receiving the funds, except that the Department may grant an extension of up to one year.

D. All property for which a matching grant is made pursuant to this section shall be dedicated as a natural area preserve as provided in §10.1-213. Any such preserve that was purchased in fee simple by the holder or public body shall be open for public access for a reasonable amount of time each year, except as is necessary to protect sensitive resources or for management purposes, as determined by the holder or public body pursuant to an agreement with the Department.

§10.1-2213. Procedure for appropriation of state funds for historic preservation.

A. No state funds, other than for the maintenance and operation of those facilities specified in §10.1-2211 or §10.1-2212 and for the purchase of property for preservation of historical resources by the Virginia Land Conservation and Recreation Foundation as provided in Chapter 10.2 (§10.1-1017 et seq.) of this title, shall be appropriated or expended for or to historical societies, museums, foundations, associations or local governments as set forth in the general appropriations act for the maintenance of collections and exhibits or for the maintenance and operation of sites and facilities owned by historical organizations unless:

1. A request for state aid is filed by the organization with the Department, on forms prescribed by the Department, on or before the opening day of each regular session of the General Assembly in an even-numbered year. Requests shall be considered by the Governor and the General Assembly only in even-numbered years. The Department shall review each application made by an organization for state aid prior to consideration by the General Assembly. The Department shall provide a timely review of any amendments proposed by members of the General Assembly to the chairmen of the House Appropriations and Senate Finance Committees. The review shall examine the merits of each request, including data showing the percentage of nonstate funds raised by the organization for the proposed project. The review and analysis provided by the Department shall be strictly advisory. The Department shall forward to the Department of Planning and Budget any application which is not for the maintenance of collections and exhibits or for the maintenance and operation of sites and facilities owned by historical organizations. Such applications shall be governed by the procedures identified in

§2.1-394.1.

2. Such organization shall certify to the satisfaction of the Department that matching funds from local or private sources are available in an amount at least equal to the amount of the request in cash or in kind contributions which are deemed acceptable to the Department. These matching funds must be concurrent with the project for which the state grant is requested. Contributions received and spent prior to the state grant shall not be considered in satisfying the requirements of this subdivision.

3. Such organization shall provide documentation of its tax exempt status under § 501 (c) (3) of the United States Internal Revenue Code.

For the purposes of this section, no grant shall be approved for private institutions of higher education or religious organizations.

B. In addition to the requirements of subsection A of this section, no state funds other than for those facilities specified in §10.1-2211 or §10.1-2212 shall be appropriated or expended for the renovation or reconstruction of any historic site as set forth in §2.1-394.1 unless:

1. The property is designated as a historic landmark by the Board and is located on the register prepared by the Department pursuant to §10.1-2202 or has been declared eligible by the Board for such designation but has not actually been placed on the register of buildings and sites provided for in § 10.1-2202;

2. The society, museum, foundation or association owning such property enters into an agreement with the Department that the property will be open to the public for at least 100 days per year for no less than five years following completion, renovation, or reconstruction;

3. The organization submits the plans and specifications of the project to the Department for review and approval to ensure that the project meets generally accepted standards for historic preservation; and

4. The organization owning the property grants to the Commonwealth a perpetual easement placing restrictions on the use or development of the property satisfactory to the Board, if the organization has received \$50,000 or more within a four-year period pursuant to this section. The easement shall be for the purpose of preserving those features of the property which led to its designation as a historic landmark.

Nothing contained in this subsection shall prohibit any organization from charging a reasonable admission fee during the five-year period required in subdivision 2 herein if the fee is comparable to fees charged at similar facilities in the area.

C. The Department shall be responsible for the administration of this section and §§10.1-2211 and 10.1-2212 and the disbursement of all funds appropriated thereto.

State funds appropriated for the operation of historical societies, museums, foundations and associations shall be expended for historical facilities, reenactments, meetings, conferences, tours, seminars or other general operating expenses as may be specified in the general appropriations act. Funds appropriated for these purposes shall be distributed annually to the treasurers of any such organizations. The appropriations act shall clearly designate that all such funds are to be used for the operating expenses of such organization.



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State Parks Future Budget Needs

Appendix Number 17

	Current Budget	Future Annual Needs	One Time Needs
Salaries & F. B.	\$6,887,611	\$1,110,809	0
Vehicles/Equipment	\$110,000	0	\$2,602,400
Wages	\$2,955,576	\$748,280	0
Other than Personal Service	\$4,252,994	\$1,100,000	0
Preventive Maintenance	\$1,148,393	\$1,722,590	0
Shoreline Erosion	0	0	\$7,975,000
Maintenance Reserve	\$1,628,000	0	\$20,000,000
Total	\$16,982,574	\$4,681,679	\$30,577,400

GENERAL INFORMATION COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

Appendix Number 17a

	CPRWMA	CVWMA	NRRA	RSWA	RVWA	SPSA	VPPSA
Year formed	1992	1990	1986	1990	1989	1973	1989
Member jurisdictions	<i>Counties:</i> Buchanan Dickenson Russell	<i>Counties:</i> Charles City Chesterfield Goochland Hanover Henrico New Kent Powhatan Prince George <i>Cities:</i> Colonial Heights Hopewell Petersburg Richmond Town of Ashland	<i>Counties:</i> Pulaski (Montgomery) <i>City:</i> Radford <i>Town:</i> Dublan	<i>Counties:</i> Albermarle <i>Cities:</i> Charlottesville <i>Towns:</i> Scottsville	<i>Counties:</i> Roanoke <i>Cities:</i> Roanoke <i>Towns:</i> Vinton	<i>Counties:</i> Isle of Wight Southampton <i>Cities:</i> Chesapeake Franklin Norfolk Portsmouth Suffolk Virginia Beach	<i>Counties:</i> Essex James City King and Queen King William Mathews Middlesex York <i>Cities:</i> Hampton Poquoson Williamsburg
Employees	"0" ^u	9	12 ^u	39	34	450	50
How majority of services provided^v	Split	Contract	In house	In house ^v	In house	In house	Split
Per capita/other assessments	None	\$.48/ resident/year from each locality	None	None	None	None	\$.33/resident/year; ^w \$5,000 charge/member/year

CPRWMA: Cumberland Plateau Regional Waste Management Authority. CVWMA: Central Virginia Waste Management Authority. NRRA: New River Resource Authority.
RSWA: Rivanna Solid Waste Authority. RVRA: Roanoke Valley Resource Authority.
SPSA: Southeastern Public Service Authority. VPPSA: Virginia Peninsulas Public Service Authority.

GENERAL INFORMATION COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

	CPRWMA	CVWMA	NRRA	RSWA	RVVA	SPSA	VPPSA
Debt^{vi}	\$3.2 million Revenue Bonds	None other than for computers, office space, vehicle leases	^{vii} VRA: \$4 million Credit line: \$8.2 million	None	\$30 million Revenue Bonds	\$250 million Revenue Bonds	\$9 million Revenue Bonds
Payment by date	2008		VRA: 2010 Credit: 2018		2012	2018	2012
Source of payment	Tip fees		Tip fees		Tip fees	Revenues including sale of electricity, tip fees and interest income.	Tip fees, lease payments for transfer stations.

ⁱ Montgomery County will join in July 1998.

ⁱⁱ PDC provides director services under contract to service authority. Seven people who are employees of the localities where the transfer stations are located are financed by the service authority.

ⁱⁱⁱ Eleven full time, one part time.

^{iv} "In house" = provided by the service authority; "Contract" = Provided by private sector through contract; "Split" = close split between in house and contract basis.

^v Moving toward contracting more of the provided services.

^{vi} Per capita assessment will be eliminated with FY 1999 budget. Administrative charges on projects will increase to balance loss of per capita assessments.

^{vii} The debt shown is for the service authority and does not include associated debt that member localities may have incurred.

^{viii} NRRA also has a loan application pending before Farmers Home Loan in the \$3-4 million range.

SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES

December 29, 1997

Appendix Number 6a

	CPRWMA	CVWMA	NRRA	RSWA	RVRA	SPSA	VPPSA
Residential Waste Collection' <i>Contract or in house</i>	No	Yes Contract	No	No	No	No	No
Members participating <i>Service paid for by</i>		3/13 Tip fees; Charge per home ⁱⁱ					
Commercial Waste Collection	No	Yes ⁱⁱⁱ Contract	No	No	No	No	Yes Contract 1/10
Members participating <i>Service paid for by</i>		3/13 Tip fees, Charge per pick up, rental of containers ^{iv}					VPPSA pays contractor and charges customers directly
Waste to Energy <i>Contract^v or in house^{vi}</i>	No	No	No	No	No	Yes In house	No
Members participating ^{vii} <i>Service paid for by</i>						8/8 Revenues ^{viii}	
Landfill or Disposal Service <i>Contract or in house</i>	Yes ^{ix} Contract	Yes ⁱ Contract	Yes ^x In house	Yes ^{xii} In house ^{xvi}	Yes ^{xiii} In house	Yes ^{xiv} In house	Yes ^{xv} Contract
Members participating <i>Service paid for by^{xviii}</i>	3/3 Tip fees	5/13 Tip fees	3/3 ^{xvii} Tip fees	3/3 Tip fees	3/3 Tip fees	8/8 Revenues	5/10 Gen. fund ^{xix}

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 RSWA: Rivanna Solid Waste Authority. RVRA: Roanoke Valley Resource Authority.
 SPSA: Southeastern Public Service Authority. VPPSA: Virginia Peninsula Public Service Authority.

SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

	CPRWMA	CVWMA	NRRA	RSWA	RVRA	SPSA	VPPSA
Transfer Stations	Yes	Yes	No	Yes	Yes	Yes	Yes
<i>Contract or in house</i>	In house	Contract		Both ^{xx}	In house	In house	In house ^{xxi}
<i>Members participating</i>	3/3	5/13		3/3	3/3	8/8	6/10
<i>Service paid for by^{xxii}</i>	Tip fees	Tip fees, Haul charges		Tip fees	Tip fees	Revenues	Leases at six + operation fees at four stations
Curbside Recycling	No ^{xxiii}	Yes	No	No	No	Yes	Yes
<i>Contract or in house</i>		Contract				In house	Contract
<i>Members participating</i>		7/13				7/8	5/10 ^{xxiv}
<i>Service paid for by</i>		Fee on per home basis, bin fees				Fee on per home basis	VPPSA pays contractor and bills localities
<i>Fees</i>		\$.867/month bi-weekly \$1.474/ month weekly, plus \$.10 PR ^{xxv} fee				\$.50/home/month	\$1.39/home/ month
Drop-off Recycling	No	Yes	Yes	Yes	Yes	Yes	Yes
<i>Contract or in house</i>		Contract	Contract	Both	Both	In house	Contract
<i>Members participating</i>		11/13	3/3 ^{xxvi}	3/3	3/3	7/8	7/10 ^{xxvii}
<i>Service paid for by</i>		Pull charges, container rentals	Landfill tip fee revenues	Waste tip fee revenues, interest	Split ^{xxviii} , solid waste tip fee revenues	Revenues	VPPSA pays contractor and bills localities

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SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

(Drop-off Recycling continued)	CPRWMA	CVWMA	NRRA	RSWA	RVRA	SPSA	VPPSA
<i>Fees</i>	NA	\$98.80/haul \$136/box/ month rental ^{xxxix}	No charge	No charge	No charge	No charge	Container rental: \$50/month Collection: \$150/ collection
Recyclable Materials Processing and Marketing	No	Yes	No ^{xxx}	Yes		Yes	Yes
<i>Contract or in house</i>		Contract		Both ^{xxxix}		Contract	Contract
<i>Members participating</i>		11/13		3/3		7/8	10/10
<i>Service paid for by</i>		Each locality ^{xxxix}		Tip fees, revenue, interest		Revenues, including from sale of material	Part of collection contract ^{xxxix}
Yard Waste Composting	No	Yes	Yes ^{xxxiv}	Yes ^{xxxv}	"No" ^{xxxvi}	Yes	Yes
<i>Contract or in house</i>		Contract	In House	Contract		In house	In house
<i>Members participating</i>		2/13	3/3	3/3		3/8	3/10
<i>Service paid for by</i>		Each locality	Landfill tip fee revenue	Yard waste tip fee	Wood waste tip fee	Revenues, compost sale, yard waste tip fee	Yard waste tip fee
<i>Fees</i>		\$10.50/ton	No charge	\$22/ton	\$35/ton	\$25/ton	\$28.13/ton

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SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

	CPRWMA	CVWMA	NRRA	RSWA	RVRA	SPSA	VPPSA
Leaf Composting	No	Yes	Yes	Yes	"No" ^{xxxvii}	Yes	Yes
<i>Contract or in house</i>		Contract	In House	Contract		In house	In house
<i>Members participating</i>		2/13	3/3	3/3 ^{xxxviii}		3/8	3/10
<i>Service paid for by</i>		Each locality	Landfill tip fee revenue	Leaf tip fee	Wood waste tip fee	Revenues, compost sale, leaf tip fee	Leaf tip fee
<i>Fees</i>		\$8.32/ton	No charge	\$6.75/ton	\$35/ton	\$25/ton	\$28.13/ton
Wood Waste Mulching	No	Yes	Yes	Yes	Yes	Yes	Yes
<i>Contract or in house</i>		Contract	In house	Both	In house	In house	In house
<i>Members participating</i>		9/13	3/3	3/3	3/3	3/8	3/10
<i>Service paid for by</i>		Bill direct from contractor to locality	Wood waste tip fee	Wood waste tip fee	Wood waste tip fee	Revenues, mulch sale, wood waste tip fee	Wood waste tip fee
<i>Fees</i>		Bill direct from contractor to locality	\$17.50/ton	\$24/ton	\$35/ton	\$25/ton	\$28.13/ton
Household Hazardous Waste Services	No ^{xxxix}	Yes	No	Yes	Yes	Yes	Yes
<i>Contract or in house</i>		Contract		Both ^{xi}	Both ^{xii}	In house	Both ^{xiii}
<i>Members participating</i>		7/13	3/3		3/3	8/8	5/10

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SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

<i>Household Hazardous waste (cont.)</i>	CPRWMA	CVWMA	NRRRA	RSWA	RVRA	SPSA	VPPSA
<i>Service paid for by</i>		Bill direct from contractor to locality		Solid waste tip fee revenues, interest	Solid waste tip fee revenues	Revenues	Op. budget and pass through ⁱⁱⁱ
<i>Fees</i>		Direct billing by contractor to locality		No charge	No charge	No charge	Cost passed on to localities, see above note
<i>Battery Collection</i>	No	Yes	Yes	Yes	Yes	Yes	Yes
<i>Contract or in house</i>		Contract	In house	Both	Contract	In house	Contract
<i>Members participating</i>		13/13	3/3	3/3	3/3	8/8	9/10
<i>Service paid for by</i>		No cost	Landfill tip fee revenue, sales to processor	Solid waste tip fee revenue, interest	Solid waste tip fee revenue	Revenues	As HHHW
<i>Fees</i>			No charge	No charge	No charge	No charge	No charge, costs included in HHHW and transfer station fees
<i>Waste Tire Management</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Contract or in house</i>	In house	Contract	In house	Both ^{iv}	Contract	In house	Contract
<i>Members participating</i>	3/3 plus ^{iv}	7/13	3/3 ^{iv}	3/3	3/3	8/8	5/10

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5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;
 6. The amount of employee stock ownership credit carry-over deducted by the corporation in computing federal taxable income under § 404 (i) of the Internal Revenue Code;
 7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code.
- C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:
1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.
 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.
 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, fifty percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.
 4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.
 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).
 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280 C (a) of the Internal Revenue Code.
 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income).
 8. Any amount included therein which is foreign source income as defined in § 58.1-302.
 9. For taxable years beginning after December 31, 1983, the available portion of total excess cost recovery as defined in former §58.1-323 B and for taxable years beginning after December 31, 1987, the excess cost recovery amount specified in §58.1-323.1 C.
 10. The amount of any dividends received from corporations in which the taxpaying corporation owns fifty percent or more of the voting stock.
 11. [Repealed.]
 12. [Expired.]
 13. (Expires for taxable years beginning on and after January 1, 2004.) The amount of any qualified agricultural contribution as determined in §58.1-322.2.
 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280 C (c) of the Internal Revenue Code.

SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

- ⁱ For columns with "No", collection services may be provide by the locality or by private companies.
- ⁱⁱ Fees related to this item are listed on the Solid Waste Fees Comparison grid.
- ⁱⁱⁱ Limited commercial waste collection.
- ^{iv} Fees related to this item are listed on the Solid Waste Fees Comparison grid.
- ^v Service authority contracts with the private sector for provision of service on behalf of members.
- ^{vi} Service authority provides service directly to the member.
- ^{vii} Number participating/number of members.
- ^{viii} Includes sale of energy, tip fees, interest income.
- ^{ix} Contracts for hauling to and disposal at a private landfill.
- ^x Contracts for hauling to and disposal at a private landfill.
- ^{xi} Owns and operates landfill.
- ^{xii} Owns and operates landfill.
- ^{xiii} Owns and operates landfill.
- ^{xiv} Owns and operates landfill.
- ^{xv} Contracts for hauling to and disposal at a private landfill for Williamsburg. Provides hauling service to landfill for Essex, King William, Mathews and Middlesex as part of transfer station operations.
- ^{xvi} Will begin contract for MSW disposal beginning July 1998. Will continue to receive CDD at Ivy landfill.
- ^{xvii} Except as otherwise noted participation in all services will be 4/4 when Montgomery County joins in July 1998.
- ^{xviii} Fees related to this item are listed on the Solid Waste Fees Comparison grid.
- ^{xix} The service authority pays the disposal cost and passes costs to localities. Localities reimburse the service authority from their general funds.
- ^{xx} Will have two transfer stations. At one the service authority will own and operate the station and contract for hauling and disposal. At the second the service authority will contract for entire service.
- ^{xxi} VPPSA owns six transfer stations. The transfer stations are leased to the localities in an amount to cover bond payments. VPPSA operates four of the transfer stations for a charge. Two localities (York and James City) contract out operation at the two remaining transfer stations.
- ^{xxii} Fees related to this item are listed on the Solid Waste Fees Comparison grid.
- ^{xxiii} Undertaking study of recycling for the localities.
- ^{xxiv} Plus Langley Air Force Base, Fort Monroe and the Naval Weapons Station.
- ^{xxv} Public Relations fee.
- ^{xxvi} Montgomery County will continue to provide this service and will continue to operate a recycling facility when it joins NRRA.
- ^{xxvii} Plus Langley Air Force Base.
- ^{xxviii} Costs split with contractor.
- ^{xxix} Each locality pays applicable processing costs.
- ^{xxx} NRRA will use Montgomery County recycling facility.
- ^{xxxi} Split roughly 50/50.
- ^{xxxii} Contractor bills service authority and the service authority is reimbursed by each locality. All revenues generated by the sale of curbside pick-up recyclables go to contractor. Revenues from sale of drop-off recyclables are shared with localities.

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SERVICES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

- xxxiii No profit sharing.
- xxxiv Considering a MSW compost project.
- xxxv Also does in house wet waste composting that is paid for by a tip fee.
- xxxvi Will accept yard waste for use in producing wood waste mulch.
- xxxvii Will accept leaves for use in producing wood waste mulch.
- xxxviii Service is open to all three localities but Charlottesville is the only one using it at this time.
- xxxix Has assisted localities in southwest Virginia with a household hazardous waste collection day.
- xl RSWA staff receive and pack. Contractor transports and disposes.
- xli Provides public information on household hazardous waste. Provides site for accepting waste and will transport and dispose of what it can. Other materials are picked up and disposed of by a contractor.
- xlii VPPSA staff receive and pack. Contractor transports and disposes.
- xliii Collection and packing is accounted for in annual operating budget. Transportation and disposal is contracted out. Service authority pays contractor and bills localities.
- xliiv RSWA will transport tires to processing plant.
- xliv CPRWMA has a contract with Virginia DEQ to handle waste tires from jurisdictions in Planning Districts 1 and 2.
- xlivi Plus Montgomery County and a number of other local jurisdictions. Shredder paid for by Waste Tire Fund grant from DEQ.
- xliiii Free transportation and processing under a grant from DEQ for Planning District 2 localities until February 1998. Free transportation for Planning District 1 localities but localities pay processor. Both PD1 and PD2 localities will pay processing fee after February 1998. Funding from DEQ ends February 1999. Localities pay processor directly.
- xliiii Waste Tire Fund Grant through DEQ.
- xliiii Montgomery County has a recycling education program that the service authority will utilize when Montgomery County joins.
- l Some contracted out.
- li Some contracted out to a non-profit group.

SOLID WASTE FEES COMPARISON OF PUBLIC SERVICE AUTHORITIES

December 29, 1997

Appendix Number 6a

	Commercial waste	Residential waste
CPRWMA		
<i>Transfer stations</i>	\$59.90 covers drop off at transfer station, transportation to landfill and disposal costs	\$59.50 covers drop off at transfer station, transportation to landfill and disposal costs
<i>Landfill</i>	NA	NA
CVWMA		
<i>Transfer stations</i>	<p>Chesterfield County: \$32.48/ton plus \$98.83/haul charge; Trailer rental (3): \$4,209/month (total) plus \$7,626 operation/month</p> <p>Chesterfield County #2: \$30.90/ton plus \$19.54/haul charge Container rental (4): \$82.79/month/container</p> <p>Goochland County: \$28.87/ton plus \$149.89/haul charge Container rental (2): \$28.87/month/container</p> <p>Powhatan County: \$28.87/ton plus 149.89/haul charge Container rental (2): \$115/month/container</p> <p>Town of Ashland: Container rental (4): \$257/month total*</p> <p>Hopewell: Container rental (5): \$56.06/box/month plus \$108.74/haul charge</p> <p>Colonial Heights: Container rental (5): \$56.06/box/month plus \$108.74/haul charge</p>	<p>Town of Ashland: \$5.64/house pick up/month plus \$35.67/ton tip fee</p> <p>Hopewell: \$4.03/house pick up/month plus \$35.37/ton tip fee</p> <p>Colonial Heights: \$4.86/house pick up/month plus \$35.37/ton tip fee</p> <p>Prince George County: \$31.18/ton plus \$39.10/haul charge Container rental (5): \$55.68/month/container</p> <p>New Kent County: \$28.87/ton plus \$99.90/haul charge Container rental (4): \$83.23/month/container Compactor rental (4): \$161.57/month/unit</p>
<i>Landfill</i>	NA	NA

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SOLID WASTE FEES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

Commercial waste		Residential waste	
NRRA			
Transfer stations	NA	NA	
Landfill	MSW: \$50/ton CDD: \$48/ton	MSW: \$50/ton CDD: \$48/ton	
RSWA			
Transfer stations	July 1, 1998	July 1, 1998	
Landfill	MSW: \$39/ton CDD: \$24/ton Vegetative waste: \$24/ton	MSW: \$39/ton CDD: \$24/ton Vegetative waste: \$24/ton	
RVRA			
Transfer station	\$65/ton ^m Friable asbestos: \$100/ton	\$53/ton	
Landfill		Vast majority of waste collected at transfer station	

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SOLID WASTE FEES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

Commercial waste		Residential waste
SPSA		
<i>Transfer station</i>	Waste processable to RDF: Chesapeake: \$29/ton Norfolk: \$30/ton Landstown: \$31.50/ton Oceana: \$32.50/ton Isle of Wight: \$36.50/ton Franklin: \$38.00/ton Boykins: \$48.50/ton Ivor: \$48.50/ton At RDF plant: \$25/ton Non-processable to RDF: \$48.50/ton at all facilities	\$48.50/ton charged to member communities rather than residents. Residents may bring four loads per month free-of-charge to any SPSA facilities.
<i>Landfill</i>	\$48.50/ton for all except Suffolk which, as the host community, pays \$10.46/ton	\$48.50/ton charged to municipality member communities rather than residents. Residents may bring four loads per month free-of-charge to any SPSA facilities. Free for Suffolk.

SOLID WASTE FEES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

Commercial waste		Residential waste
VPPSA		
<i>Transfer station</i>	<p>No tip fees, costs included in lease of transfer station to locality and service authority fees for operations with Essex, King William, Mathews and Middlesex.</p> <p>Annual lease payments: Essex: \$85,545 King William: \$64,548 Mathews: \$69,986 Middlesex: \$21,523</p> <p>Leases transfer stations to York or James City. The two localities contract out on own for operations. Lease payments: York: \$208,912 James City: \$174,371</p>	No distinction
<i>Landfill</i>	<p>Service authority pays private landfill and cost is passed on to localities of Williamsburg, Essex, King William, Mathews and Middlesex. All other members set up own disposal contracts.</p> <p>Tipping fees paid by VPPSA: BFI (King and Queen Landfill): \$29.26/ton Waste Management (Middle Peninsula Landfill): \$29.37/ton USA Waste (Bethel Landfill): \$25.19/ton</p>	No distinction

SOLID WASTE FEES COMPARISON OF PUBLIC SERVICE AUTHORITIES
December 29, 1997

ⁱ Unless otherwise noted the listings in the commercial waste column for CVWMA may, at the decision of the locality, take a combination of residential and commercial waste. CVWMA listings under residential waste only accept residential waste at this time.

ⁱⁱ The containers rented by Ashland, Hopewell and Colonial Heights are used at public buildings for their waste.

ⁱⁱⁱ Includes cost for transfer station, transportation contract with Norfolk Southern and disposal.

SUMMARY OF SOLID WASTE PROPOSALS AND SUBCOMMITTEE ACTION
(As of January 5, 1999)

Key Provisions	Bolling (12/2 Draft)	Deeds/Hanger (12/3 Draft)	McEachin (12/2, 8:51 AM) HB 1466	1/5 Subcommittees Action (1/9 Draft)
<p>Expands the required review and determinations that must be made by DEQ when it considers permit applications related to solid waste management facilities (SWMF).</p>	<p>✓ Page 4-5 Applies to requests for new or amended permits for all types of SWMF. Specifies review of additional comments and the analysis of potential human health, environmental, infrastructure, and safety impacts. Requires findings that: (i) the new or expanded facility will be protective of present and future health and environment; (ii) there is need for the additional capacity; (iii) infrastructure exists to safely handle waste flow; (iv) the increase is consistent with disposal caps; (v) the public interest will be served; and (vi) the new capacity is consistent with solid waste management plans.</p>	<p>✓ Pages 12-13 Applies to new landfill permit applications. Specifies siting review requirements including: (i) adequacy of transportation infrastructure based on site specific VDOT reports; (ii) impacts on water supplies, parks, marine resources, wetlands, historic sites, fish and wildlife, water quality and tourism; and (iii) geological suitability. New landfills are prohibited in seven types of environmentally or geologically sensitive areas including: 1. 100 year flood plains. 2. Wetland areas. 3. Water supply aquifer recharge areas. 4. Areas vulnerable to dam failure flooding. 5. Over sinkholes of solution caverns of Karst topography. 6. Park, wildlife, recreation or critical habitat areas. 7. Over active faults.</p>		<p>Pages 6, 13-14 Adopted provisions from both the Bolling and Deeds/Hanger proposals. Bolling provisions amended to exclude certain captive industrial landfills from new requirements. Consideration to be given to limiting exclusion to those accepting waste generated on site. Item (iv) of the Bolling proposal amended by staff to reflect acceptance of the daily volume limits of the Deeds/Hanger proposal found in the next row in this chart. Bolling provisions appear on page 6 Deeds/Hanger provisions on pages 13-14</p>
<p>Disposal limits</p>	<p>✓ Page 13 Caps municipal solid waste landfill disposal capacity at 1998 levels but allows growth of up to</p>	<p>✓ Pages 5, 13-14 Daily volume limits, with which sanitary landfills shall comply, are to be established by host localities and</p>		<p>Page 5, 14-15 Deeds/Hanger provisions adopted. Senator Bolling presented but did not</p>

SUMMARY OF SOLID WASTE PROPOSALS AND SUBCOMMITTEE ACTION
(As of January 5, 1999)

Key Provisions	Boiling (12/2 Draft)	Deeds/Hanger (12/3 Draft)	McEachin (12/2; 8:51 AM) HB 1466	1/5 Subcommittee Action (1/9 Draft)
	5% per year thereafter. Allows, if necessary to serve the public interest, additional increases. DEQ Director given time limit in which to act on public interest increases.	placed in host agreements. The local government is to consider: (i) The operators ability to properly manage and dispose of the authorized volume; (ii) The local effect of vehicles transporting waste; and (iii) capacity guarantees.		request action on an alternative cap provision. The alternative sets landfill volume disposal limits at 2,000 tons per day or 1998 volumes, whichever is greater.
Environmental improvement trust funds.	<p align="center">✓ Pages 14-16</p> No fee. A general fund appropriation based fund is created to be used for: 1. Clean up of any operating, inactive, closed or abandoned SWMF or site, prioritized by greatest threat. 2 and 3. Monitoring and inspection of waste transportation and responding to transportation spills. 4. Grants to local governments for proper closure of landfills without proper liner and leachate control systems, whether owned by the local government or abandoned in their jurisdiction. 5. Preventing/alleviating health and environmental dangers related to transport and disposal of solid wastes.	<p align="center">✓ Pages 15-19</p> \$1 per ton base fee. Sliding scale increase up to \$2 based on daily volume and a historic volume based daily threshold volume calculation. Used for: 1. Clean up, remediation and proper closure of post closure landfills and abandoned landfills for which insufficient funds exist from other sources. 2. Parks, open space, easement and agricultural land acquisition and preservation programs of DCR, easement holders and local governments (ag land programs only). 3. Grants to local governments for proper closure of landfills without proper liner and leachate control systems, whether owned by the local government or abandoned in their jurisdiction.	<p align="center">✓ Pages 11-13</p> \$1 per ton base fee. Sliding scale increase up to \$2 based on daily volume. Used for : 1. Clean up, remediation and proper closure of post closure landfills and abandoned landfills for which insufficient funds exist from other sources. 2. Grants to local governments for proper closure of landfills without proper liner and leachate control systems, whether owned by the local government or abandoned in their jurisdiction.	<p align="center">Page 14-19, 20, 1-2</p> Deeds/Hanger fee and fund adopted. Consideration to be given to adding uses number 5 and 6 found in the description of the Boiling proposal to the Deed/Hanger Fund uses if it is possible to do so without reducing the effectiveness of the existing provisions. Alternative language relating to exclusions from fee payment was adopted which exempts localities and public service authorities from fees if an equivalent amount is dedicated by the locality or authority to the same purposes as the fee. (Page 19)

SUMMARY OF SOLID WASTE PROPOSALS AND SUBCOMMITTEE ACTION
(As of January 5, 1999)

Key Provisions	Bolling (12/2 Draft)	Deeds/Hanger (12/3 Draft)	McEachin (12/2: 8:51 AM) HB 1466	1/5 Subcommittee Action (1/9 Draft)
	6. Local grants for waste management, waste reduction and anti-litter efforts.	Locality or service authority owned or operated landfills are excluded from fee requirements but are authorized to charge a similar fee to be used for similar purposes. Those choosing not to charge the fee are ineligible to receive most benefits from the Fund created from fees at other facilities.		
Prohibits, to the extent constitutionally allowable, the commercial transport on water of most non-hazardous solid wastes.	✓ Pages 15-16			No action requested.
Prohibits solid waste management facilities from accepting most non-hazardous solid waste from vessels commercially transporting the waste on water.	✓ Page 16			No action requested.
Requires the development of regulations governing land transport of wastes.	✓ Page 16 Applies only to trucks without stating specific provisions to be included in program.	✓ Pages 19-20 Applies to trucks and rail. Some specifics on containers and financial assurance included to extent not preempted.		Page 19-20 Adopted a blend of the two proposals: Requirements limited to trucks (Bolling) but includes specific requirements (Deeds/Hanger).
Guarantees municipal solid waste disposal capacity for Virginia localities in accordance with solid waste management plans.	✓ Pages 4,12 Identical	✓ Pages 5,12 Identical		Pages 5, 13 Adopted but with exclusions for political subdivision landfills accepting waste only from within the subdivision's jurisdiction(s).
Requires host agreements				

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between host localities and applicants for new or expanded landfill operations.	✓ Page 4 Identical	✓ Page 5 Identical		Page 5 Adopted.
Requires certification by waste transporters that waste is suitable for disposal at a facility before the facility may accept it.	✓ Page 12 Transporter must certify "that the waste is free of substances not authorized for disposal at the facility"	✓ Page 12 Transporter must certify "that the waste is free of hazardous materials, substances and wastes, regulated medical wastes and other substances not authorized for disposal at the facility."		Page 13 Adopted (Staff selected 12/2 language. The intent is the same with both proposals.)
Requires DEQ to extend post-closure monitoring and maintenance and financial assurance requirements when necessary to protect human health and the environment. In such cases, revised post closure monitoring and maintenance plans are also required.	✓ Pages 12-13 Identical	✓ Pages 14-15 Identical		Page 15-16 Adopted.
Imposes a three year moratorium on permit issuance for a new landfill or for expansion of existing landfills. Does not apply to any permit applications pending on January 1, 1999.		✓ Page 21		Page 21 One year, rather than three year, moratorium adopted.
Requires DEQ to conduct a comprehensive study of waste management practices and needs.		✓ Page 21		Page 21 One year, rather than three year, study adopted.
Requires closure of landfills not meeting the most modern liner			✓ Pages 8-10	Began examination of issues but declined to act without patron.

SUMMARY OF SOLID WASTE PROPOSALS AND SUBCOMMITTEE ACTION
 (As of January 5, 1999)

Key Provisions	Bollins (12/2 Draft)	Deeds/Hanger (12/3 Draft)	McEachin (12/2; 8/5 LAM) HB 1466	1/5 Subcommittee Action (1/9 Draft)
and leachate requirements of the state's regulations.				

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Appendix Number 19

SENATE JOINT RESOLUTION NO. 327

Memorializing The Congress of the United States to enact legislation containing specific state and local powers to control the importation of waste into their jurisdictions.

Agreed to by the Senate, January 29, 1999

Agreed to by the House of Delegates, February 25, 1999

WHEREAS, a recent report issued by the Department of Environmental Quality revealed that Virginia is currently the second largest importer of municipal solid waste from other states in the nation, currently importing approximately four million tons of municipal solid waste from other states and ranking second only to the state of Pennsylvania; and

WHEREAS, the amount of municipal solid waste being imported to Virginia from other states is expected to increase in coming years due to the impending closure of the Fresh Kills Landfill in New York; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states is prematurely exhausting Virginia's limited landfill capacity; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states has created many short-term environmental problems for Virginia, such as an increasing number of garbage trucks on our roads, an increasing number of garbage barges on our rivers, and the attendant environmental problems that are associated with such modes of transportation; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states could create serious long-term environmental problems for Virginia; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states is not consistent with Virginia's efforts to promote the Commonwealth as a national and international destination of history, tourism and high tech economic development; and

WHEREAS, the Commerce Clause of the United States Constitution, and the interpretation and application of the Commerce Clause adopted by federal courts and the Supreme Court of the United States to interstate waste transportation, have left Virginia and other states with limited alternatives in regulating, limiting or prohibiting the importation of municipal solid waste from other states; and

WHEREAS, it is the belief of the General Assembly of Virginia that state and local governments should be given more authority to control the importation of municipal solid waste into their jurisdiction; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to enact legislation that gives state and local governments additional specific authority to regulate, limit or prohibit the importation of municipal solid waste from other states into their jurisdictions; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the Congressional Delegation of Virginia in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.



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