



Memorandum

To: VA-AREA Members
From: Ken Hutcheson
Re: 2010 General Assembly Final Report
Date: March 16, 2010

Sunday, March 14th (one day late) marked the end of the 2010 Virginia General Assembly and as predicted, small but measurable legislative accomplishments related to the expansion of the renewable energy industry in the Commonwealth of Virginia were achieved. A \$4.2 Billion dollar budget deficit coupled with heightened concerns related to the impact any energy legislation might have on the ratepayer and the business community, however, led to a very cautious and deliberate approach to the General Assembly's actions on energy issues this session.

It is worth noting that these were concerns and constraints both political parties addressed and factored into their decision-making. As such, most legislation that would require scarce state general fund dollars or legislation that might have led to increased costs to utilities through the use of mandates (and therefore the ratepayer) did not receive favorable action in most cases.

The Virginia Alternative and Renewable Energy Association worked seamlessly with several association members and stakeholders to advance our agenda recognizing the difficult environment confronting us. I am pleased to report though that several meaningful legislative initiatives advancing renewable energy industry in Virginia were successful.

Below is a summary of key renewable energy legislation during the 2010 General Assembly session that passed both chambers and is on its way to the Governor's Office for his signature. In an effort to keep the length of this report manageable, I have limited my commentary, but if you have questions about any particular piece of legislation, please do not hesitate to call or email and I will be happy to expand upon my thoughts.

Renewable Energy Tax Credit & Exemption Bills

[HB 803](#) Del. Poindexter & [SB 623](#) Sen. Hanger

Income tax, corporate and individual; green jobs tax credit

Quick Analysis: This was part of Governor McDonnell's legislative agenda and would entitle any business creating a "green job" which pays more than \$50,000 to a \$500 income tax credit up to 350 jobs. This is a huge step forward with respect to helping lawmakers understand the value of incentivizing the growth of renewable energy jobs in the Commonwealth of Virginia. It may not be huge in terms of dollars, but it is a bold step forward.

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Key language in the final bill includes the following: "Green job" means employment in industries relating to the field of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen and fuel cell technology, landfill gas, geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems.

[HB 999](#) Del. Nutter & [SB 656](#) Sen. Ruff

Local property tax; separate classification for certified renewable energy manufacturing equipment, facilities, devices

Quick Analysis: These could be a very valuable economic development tool for existing manufacturing businesses in the Commonwealth of Virginia and ones we are trying to recruit. This was a great example of legislation proposed by a member of VA-AREA that we work closely with that has huge economic development potential and has no fiscal impact on the state budget. I suspect that the Virginia Economic Development Partnership will hold this new incentive out when trying to recruit renewable energy manufacturers to the Commonwealth and that is a positive thing.

Misc.

[HB 92](#) Del. Kilgore

Renewable energy certificates; tariff filed by cooperative for electric energy

Quick Analysis: Customers in the electric cooperative service territories will be able to purchase Renewable Energy Credits bundled with their electricity, thus allowing the co-ops to offer an approved tariff for electric energy provided 100 percent from renewable energy. This bill was opposed by some in the renewable energy community due to the triggering of a provision in the 2007 "Reregulation" legislation that called for the end to retail competition in a service territory if the incumbent provider is deemed to offer 100% renewable energy. In an attempt to accommodate those with concerns about projects underway or near commencement, the Virginia Senate and the patron of the bill, Delegate Terry Kilgore, agreed to extend the window of time until July of 2012 for non-residential retail competition to begin.

[HB 389](#) Del. Janis & [SB 577](#) Sen. McEachin

Virginia Offshore Wind Development Authority; created

Quick Analysis: This is the first major step in the right direction to accelerate efforts to develop Offshore Wind. The Virginia Offshore Wind Coalition did a great job bringing stakeholders to the table and achieving a good deal of consensus on this important issue. Del. Janis and Sen. McEachin demonstrated a great deal of interest in this issue along with Sen. Frank Wagner who has also been a leader in the offshore wind movement. Many of his ideas were incorporated into

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SB 577. The Governor has said he will sign it. For more information, please visit:
<http://www.vowcoalition.org/>.

HB 442 Del. Toscano

Electric utilities; authorizes customer to continue generating & selling renewable energy to entity

Quick Analysis: This legislation would grandfather in existing power purchase agreements if the incumbent utility company files with the Commission a tariff to offer electric energy provided 100 percent from renewable energy, for the duration of such agreement. This bill was introduced to address some of the potential issues arising from HB92 if it passed. The net effect is that any power purchase agreement in effect with a retail commercial customer will remain in effect for the term of the agreement.

HB 756 Del. Stolle

Royalties from offshore drilling

Quick Analysis: This bill earmarks 20% of future royalties to the Virginia Coastal Energy Research Consortium, a founding member of VA-AREA. Similar legislation was killed in the Senate (SB601 Wagner), but the Democrats in the Virginia Senate changed their minds when the Stolle version of the legislation crossed over to them from the House. Should Virginia begin to realize royalties from offshore leasing and drilling, the funds earmarked to VCERC will be a tremendous asset to the R & D efforts for renewable energy in the Commonwealth.

HB 806 Del. Poindexter

Alternative Fuels Revolving Fund; adds improvement of infrastructure such as refueling stations

Quick Analysis: This bill could be helpful down the line for hydrogen and natural gas powered vehicles. It should be ok in the Senate.

HB 928 Del. Rob Bell

Virginia Universities Clean Energy Development and Economic Stimulus Foundation; created

Quick Analysis: This was another priority contained in Governor Bob McDonnell's legislative agenda and should play a prominent role engaging Virginia's Higher Education community in the effort to expand the renewable energy industry in the Commonwealth. Key verbiage in the bill: "There is hereby created the Virginia Universities Clean Energy Development and Economic Stimulus Foundation (Foundation) established as a body corporate and political subdivision of the Commonwealth which, with the cooperation and assistance of the universities, shall identify, obtain, disburse, and administer funding for the following purposes: (i) research and development of alternative fuels, clean energy production, and related technologies; (ii) support of economic development projects in economically disadvantaged areas; and (iii)

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provision of assistance in the commercialization of alternative fuels and clean energy technologies developed with funds administered by the Foundation.”

[HB 1022](#) **Del. Hugo**

RPS program; electric utility to receive triple credit when energy derived from offshore wind

Quick Analysis: This bill provides that an investor-owned electric utility will receive triple credit toward meeting the goals of the renewable energy portfolio standard program for energy derived from offshore wind. Currently there is a double credit provision for solar and onshore wind in the Voluntary RPS law. This triple credit provision takes into account the huge expense a utility would undertake to deploy resources offshore.

[SB 110](#) **Sen. Petersen**

Clean energy financing; localities authorized to place liens against any property

Quick Analysis: After strong objections from the Virginia Banker’s Association, the guts of this bill were removed. These Property Assessed Clean Energy (PACE) financing mechanisms will be a valuable tool for the commercialization of renewable energy systems in Virginia, but we need to keep working to enhance this tool that localities have. Governor McDonnell’s policy office checked in with us on this bill to make sure we supported it before he signed it, so that is a strong indication of the working relationship we will have over the course of his administration.

[SB 272](#) **Sen. Whipple**

Biodiesel or green diesel fuel; minimum content in state contracts for vehicle fuel

Quick Analysis: This legislation in its introduced form would have required state public bodies to procure only diesel fuel containing, at a minimum, two percent, by volume, biodiesel fuel or green diesel fuel. The final version that passed watered it down a good bit, but it remains a positive step forward. The Director of the Department of General Services is now tasked with establishing the conditions under which state public bodies may procure diesel fuel containing, at a minimum, two percent, by volume, biodiesel fuel or green diesel fuel, as defined in § [45.1-394](#), for use in on-road internal combustion engines. The conditions shall take into consideration the availability of such fuel and the variability in cost of biodiesel fuel with respect to unblended diesel fuel.

Carried-over Legislation

[HB 881](#) **Del. BaCote**

Solar energy collection devices; no community association shall prohibit installation or use

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Quick Analysis: This legislation was the subject of much discussion for a few weeks early on. The bill has been carried over for the year so both sides of this issue can attempt to work on forging a compromise. With vast numbers of HOA's across Virginia, especially in Northern Virginia, restricting the use of solar power devices, it is a marketplace that is closed off to the solar industry and must be addressed.

[HB 998](#) Del. Nutter & [SB 657](#) Sen. Ruff

Income tax, corporate; renewable energy products export tax credit

Quick Analysis: This is an income tax credit program that would entitle any business that comes online by January 1, 2012 for the purpose of manufacturing renewable energy products for export through the Port of Virginia up to \$500,000 in income tax credits. Given that the House Appropriations Committee is examining tax credit/economic development incentive legislation very thoroughly, this bill was referred to the Major Employment and Investment (MEI) Project Approval Commission for further vetting.

[HB 1037](#) Del. Byron & [SB 129](#) Sen. Stosch & Sen. Deeds

Clean Energy Manufacturing Incentive Grant Fund; created

Quick Analysis: This legislation repeals the Solar Photovoltaic Manufacturing Incentive Grant Program and creates a program to provide financial incentives to companies that manufacture or assemble equipment, systems, or products used to produce renewable energy, nuclear energy, or energy efficiency products. To be eligible for a grant, the manufacturer must make a capital investment greater than \$50 million and create at least 200 full-time jobs. This legislation was referred to the Major Employment and Investment (MEI) Project Approval Commission for further vetting.

[HB 1341](#) Del. Gilbert

Income tax; credit for electric energy facility producing electricity from livestock waste nutrient

Quick Analysis: This legislation and the two below were introduced with the goal of recruiting a company to the Shenandoah Valley that burns livestock waste and generates electricity. These measures will likely be back next year in full force.

[HB 1342](#) Del. Gilbert

Renewable energy portfolio standard; electric generation facilities fueled by poultry litter, etc.

[SB 678](#) Sen. Hanger

Income tax; credit for electric energy facility producing electricity from livestock waste nutrient

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Notable Failed Legislation

[HB 327](#) Del. Plum & [SB 71](#) Sen. McEachin

Electric energy efficiency standard; established

[HB 441](#) Del. Toscano

Community and agricultural net metering; requires State Corporation Commission to establish program

[HB 1222](#) Del. Ebbin

Voluntary Solar Resource Development Fund; established

[HB 1380](#) Del. Pollard & [SB 39](#) Sen. Stuart

RPS program; removes certain requirements for forest products

[SB 150](#) Sen. Stuart

Energy efficiency programs; rate recovery options for utilities

[SB 174](#) Sen. Deeds

Retail Sales & Use Tax; exempts solar thermal systems, etc., purchased for installation on property

Quick Analysis: Though an identical bill was killed in the House last year, we made significant progress this session making the case for this particular legislation. After passing the Senate 40-0, it survived split votes in the House Finance Subcommittee #1 and then in full committee. It was referred from the House Floor up to the Appropriations Committee where it failed for lack of a hearing. We had a good meeting with Delegate Kirk Cox on this and made significant headway on the policy debate. Given the budget situation and fiscal impact of this bill, albeit a delayed one, it just wasn't the right time to get it done. This legislation can and should be one of our top priorities next session and we will work the issue a good bit in the "off-season."

[SB 392](#) Sen. Wagner

Retail Sales and Use Tax; exemption for production of electricity from offshore winds

[SB 450](#) Sen. Whipple

Renewable energy portfolio standard program; mandatory program for investor-owned utilities

[SB 729](#) Sen. McEachin

Electric utilities; alternative energy research and demonstration projects

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Conclusion

The 2010 Virginia General Assembly session will be remembered mainly for the budgetary constraints confronting the Commonwealth, but incremental progress on advancing the business argument for renewable energy was clearly achieved. Offshore wind development, income tax credits for “Green Jobs” and real and personal property tax relief (local option) for renewable energy manufacturing facilities top the highlight reel and certainly help move the ball forward.

For the remainder of the year, we will work to weigh in on the “Carried-over” legislation and the bills being examined by the MEI Commission with an eye toward the 2011 session. Thank you to all the members who took their personal time to help the association lobby and develop policy. As we move into our second full year, I hope more members will engage at this level and help raise our growing profile at the Capitol.

Please don't hesitate to contact me if you have any questions or feedback and in the meantime, I look forward to seeing each of you shortly.