

MEPAV Legislative Update February 24, 2021

Barring something unusual happening, we are in the final days of this legislative Session. The operating resolution for this Special Session of the General Assembly says that the legislature shall adjourn no later than March 1. They are to reconvene on April 7th to consider any amendments to legislation proposed by the Governor and to consider overriding any veto, should the Governor reject any legislation.

At some point, the legislature will have to have another Special Session to consider the redistricting plan the independent redistricting commission develops. Since new legislative districts depend on the 2020 census data, which is not expected to arrive before July 31, 2021, Virginia may end up having House of Delegates elections three years in a row. Probably the earliest we will have any indication of that happening will be during the April reconvened Session.

Below is a brief summary of some of the bills of interest to MEPAV during the 2021 regular Session and the 2021 Special Session 1.

Closure of Carbon-emitting Generating Units. Identical bills ([SB1247](#) and [HB1834](#)) introduced to require certain notices be given when fossil fuel power plants over 80 megawatts are scheduled to be closed, have passed the House and Senate. They now head to the Governor for his review and approval. Language limiting the measures to just electric utilities has been removed from both bills.

Energy Efficiency. Legislation ([HB2227](#)) directing the Board of Housing and Community Development to consider adopting energy efficiency standards in the Uniform Statewide Building Code that are at least as stringent as those in the most recent edition of the International Energy Conservation Code passed the House and is awaiting action on the Senate floor. A Senate bill ([SB1224](#)) that would have mandated the adoption of such standards died in the Senate General Laws and Technology Committee. A House bill ([HB2001](#)) requiring that certain state and local buildings being constructed comply with high performance building certification standards is also waiting to be taken up for consideration by the full Senate.

Battery Storage. Legislation putting battery storage on par with solar for siting [HB2201](#), has passed the House and Senate. An identical bill, [SB1207](#), passed the Senate and was approved by the House earlier today. [SB1201](#) and [HB2006](#) are identical bills on their way to the Governor that provide for energy storage systems to be considered certified pollution control equipment and be exempt from local property taxation. The tax exemption applies only to certain projects with storage capacity of more than five megawatts and less than 150 megawatts. The legislation also provides that a locality may assess a revenue share of up to \$1,400 per megawatt of alternating current (AC) on energy storage systems. This is the same tax treatment currently provided for solar facilities. [HB2269](#) contains only the revenue share tax provisions and has passed the House and Senate.

Transportation Electrification. Legislation ([HB2282](#)) supporting the Commonwealth's transportation electrification goals is also on its way to the Governor. Under that legislation, the SCC will conduct a study and develop recommendations on how to accelerate the effective deployment of electric vehicle charging infrastructure. A related measure, [SB1223](#), would amend the Virginia Energy Plan to include and analysis of electric vehicle charging infrastructure and other infrastructure needed to support the 2045 net-zero carbon target. The Division of Energy, located within the Department of Mines, Minerals and Energy is tasked with this analysis. That bill has also passed the House and Senate.

Electric Vehicles. [HB1965](#) directs the State Air Pollution Control Board to implement a low-emissions and zero-emissions vehicle program for motor vehicles with a model year of 2025 and later. Regulations adopted by the Board to implement the program would become effective January 1, 2024. That bill has passed the House and Senate. Another

measure, [HB1979](#), would establish an electric vehicle rebate program. That measure has passed the Senate with amendments. The House has rejected those amendments so the bill will go to conference. The House version of the Budget Bill contains \$5 million for the rebate program. [HB1850](#) authorizes motor vehicles powered primarily by means of electric battery power to exceed relevant vehicle weight limits by 2,000 pounds, provided the weight is on the power unit and does not exceed 82,000 pounds on an interstate highway. This bill has passed the House and Senate and brings Virginia law into conformity with the Federal Code. [HB2118](#) establishes the Electric Vehicle Grant Fund and Program that would award grants on a competitive basis to public school divisions to assist in replacing diesel school buses with electric school buses and support the installation of recharging infrastructure. The Senate amended [HB2118](#) to incorporate several of the provisions in Senator Lucas' electric school bus legislation. The House has rejected those amendments, so the bill will go to conference.

Electric School Bus Project. [SB1380](#) is a bill that Dominion and several local governments are supporting. Under the legislation, Dominion would cover the cost difference between electric and diesel buses (more than \$200,000 per bus) so that schools would just pay what they have been paying for a diesel bus (around \$100,000). Dominion would own the batteries in the bus and the charging infrastructure (which they also would pay for) and Dominion could use the battery storage for grid stabilization. The program would be limited to 250 buses per year for a five year total of 1250. Dominion says the Virginia Clean Economy Act requires them to develop a significant amount of energy storage and this is one way to do that. Concerns have been raised by several environmental groups that this approach is too costly compared to other energy storage options. The House amended [SB1380](#), adding a provision that would require the bill to pass in the 2022 legislative Session before it became effective. Senator Louise Lucas offered a floor substitute to a somewhat related bill, [HB2118](#), that was passed by the Senate, combining the two bills by adding much of her bill, with a few changes, in enactment clauses to the House bill. The Senate approved the amended [HB2118](#) and sent it back to the House. Both bills appear headed to a committee of conference.

Privacy. Legislation ([SB1392](#) and [HB2307](#)) targeted at Google, Amazon and Facebook was introduced to try to protect consumer privacy. This legislation, referred to as The Consumer Data Protection Act, addresses privacy protection standards and outlines responsibilities for data controllers and processors. Local governments, authorities, and political subdivisions of the state are exempt from the legislation. Both bills have passed the House and Senate.

SCC Judge Election. The House and Senate have each passed resolutions ([HR251](#) and [SR103](#)) electing members of the Virginia State Corporation Commission. Angela Navarro, previously serving in the Northam Administration as Deputy Secretary of Commerce and Trade, was elected to the three member Commission. She succeeds Mark Christie, now serving on the Federal Energy Regulatory Commission (FERC). Jehmal Hudson, previously on the staff of the Federal Energy Regulatory Commission, was also elected. He was appointed to the SCC by Governor Northam when the legislature failed to elect someone in the 2020 General Assembly session. He succeeded Patricia West, whose term had expired.

Percentage of Income Payment Program (PIPP). Under last year's Virginia Clean Economy Act, the State Corporation Commission (SCC) was required to conduct a proceeding to implement PIPP for APCO and Dominion. The SCC was tasked with determining what the universal service charge needed to be to generate sufficient funds to reduce the energy burden on low-income customers of Dominion and APCO under the provisions of the VCEA. During the SCC's regulatory proceedings on this matter, they determined that some clarifications were needed to the PIPP enabling statute.

As introduced, [HB2330](#) clarified the definition of eligibility for PIPP by setting it at 200 percent of the federal poverty level. The bill would authorize the Department of Housing and Community Development (DHCD) and the Department of Social Services (DSS) to develop and implement non-utility energy efficiency programs and other programs for the reduction of energy use for eligible participants in the PIPP, provided that the Departments engage in a stakeholder process and undertake a cost-benefit analysis in the development of any such programs. The bill would require the SCC to initiate any proceedings to establish new energy efficiency or low-income programs as necessary to provide service

to PIPP participants over a timeframe to be determined by the Commission. The bill establishes a state PIPP fund where the universal service fees collected by the utilities are deposited. The bill also requires the SCC conduct a proceeding to provide for an annual true-up of the universal service fees.

The Senate reduced the eligibility for PIPP to 150% of the federal poverty level after APCO testified that 40% of their customers would likely qualify for PIPP if eligibility remained at the 200% level. Senators were also concerned that DHCD and the DSS would be developing non-utility energy efficiency programs that could be costly for the two utilities' other customers. The bill is in conference to work out the differences.

It is worth noting that when the SCC conducted their proceedings for APCO and Dominion, they determined that the universal service fee would add \$1.13 per 1000 kwh per month for Dominion customers and \$1.80 for APCO's customers.

3rd Party Power Purchase Agreements. [HB2034](#) and [SB1420](#) are identical bills that clarify that nonjurisdictional (local governments and school divisions) customers in APCO's service territory are eligible to participate in 3rd party power purchase agreements as they are in Dominion's service territory. Both jurisdictional and nonjurisdictional customers may participate in these pilot programs on a first-come, first-serve basis. The cap in Dominion's service territory is 500 megawatts for jurisdictional and 500 MW for nonjurisdictional. APCO has a 40 MW (total) cap. Both bills are on their way to the Governor for his consideration.

Local green banks. [HB1919](#), which has passed the House and Senate, authorizes a locality, by ordinance, to establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies. The bill establishes certain powers and functions of a green bank, including developing rules and procedures, financing and providing loans for clean energy projects, and stimulating demand for renewable energy. The bill requires the green bank to be a public entity, quasi-public entity, or nonprofit entity and requires the locality to hold a hearing and publish notice in a newspaper of general circulation prior to establishing the green bank.

Provision of broadband capacity by Dominion and APCO. [HB2304](#) and [SB1413](#) are identical bills that make the current pilot program under which Dominion and APCO are permitted to petition the State Corporation Commission (SCC) to allow them to provide broadband capacity to unserved areas of the Commonwealth permanent. The bill expands the program to allow Dominion and APCO to lease their broadband-related assets or capacity to municipalities and government-owned broadband authorities. The bill provides that the investor-owned electric utilities may file for approval of a rate adjustment clause to recover costs from providing broadband capacity. Both the Virginia Department of Housing and Community Development (DHCD) and the SCC can determine that an area is unserved by broadband. Both bills have passed the House and Senate and are on their way to the Governor. [HB1923](#) and [SB1334](#) are identical bills that contain only the municipalities and broadband authorities expansion language. They have also passed. [SB1225](#) authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of broadband services for educational purposes. The measure authorizes school boards to partner with private broadband service providers to promote, implement, and subsidize broadband for educational purposes to the households of students who would qualify for (i) a child nutrition program or (ii) any other program recognized or adopted by the local schoolboard as a measuring standard to identify at-risk students. The House and Senate have approved the bill.

Agricultural net metering. [HB1994](#) expands the definition of small agricultural generator to include any business operating a small agricultural generating facility that has been granted a manufacturer license as a distillery, limited distillery, brewery, limited brewery, winery, or farm winery. Under current law, small agricultural generators include only those businesses operating a small agricultural generating facility as part of an agricultural business. This legislation was introduced at the request of the electric cooperatives and has passed the House and Senate.

Accelerated renewable energy buyers. [HB1907](#) was introduced as a technical amendment to the Virginia Clean Economy Act (VCEA) from the 2020 General Assembly session. Facebook has an experimental tariff with Dominion where they are purchasing 100% renewable energy from certain renewable energy facilities. The bill will exempt them

from an allocation of the net costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by Dominion Energy Virginia. The exemption is based on the amount of Renewable Energy Certificates associated with the customer's renewable facilities agreements associated with the tariff offering in proportion to the customer's total electric energy consumption, on an annual basis. The measure has passed the House and Senate.

Electric utilities; procurement. [SB1295](#) requires Dominion and APCO, in the construction of certain onshore wind, solar, and energy storage facilities, to procure, subject to a competitive process, equipment from a Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced. Additionally, the bill requires Dominion, in the construction of certain offshore wind projects, to develop and submit a plan for review to the State Corporation Commission that includes considerations for the procurement of equipment from a Virginia-based or United States-based manufacturer using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

Carbon Sequestration Task Force. [SB1374](#) directs the Secretary of Natural Resources, jointly with the Secretary of Agriculture and Consumer Services, to convene a task force to study carbon sequestration in the Commonwealth and submit a report of its findings to the legislature before the 2022 Session. The bill directs the task force to (i) consider possible methods of increasing carbon sequestration within the natural environment through state land and marine resources use policies; agricultural, aquacultural, and silvicultural practices; and other practices to achieve restoration of natural resources and long term conservation; (ii) recommend short-term and long-term benchmarks for increasing carbon sequestration; (iii) develop a standardized methodology to establish baseline carbon levels and account for increases in carbon sequestration over time; (iv) identify existing carbon markets and considerations relevant to potential participation by the Commonwealth; and (v) identify other potential funding mechanisms to encourage carbon sequestration practices in the Commonwealth.

Greenhouse gas emissions inventory. [SB1282](#) directs the Department of Environmental Quality to conduct a statewide baseline and projection inventory of all greenhouse gas emissions and to update such inventory every four years. The bill requires that the inventory be published and included in the annual report of the State Air Pollution Control Board. The bill also authorizes the Board to adopt regulations necessary to collect data needed to conduct, update, and maintain the inventory. The measure exempts proprietary information collected by the Department from the mandatory disclosure requirements of the Virginia Freedom of Information Act. The bill is on its way to the Governor.

Underground utility facilities in Fairfax County. [SB1385](#) removes the sunset on a pilot program allowing Fairfax County to request an electric utility to place electric distribution lines underground as part of a transportation infrastructure improvement project. The bill changes a number of provisions in the program including expanding it to allow it to apply to facilities of electric cooperatives, telecommunications providers, cable providers, and other utilities and makes the costs of relocating the facilities negotiable. It places additional limits on the levy to fund the project and the types of projects for which it may be imposed. The bill is on the House floor with amendments.

Commonwealth Clean Energy Policy. [SB1284](#) revises the Commonwealth Energy Policy to be the Commonwealth Clean Energy Policy. The bill sets out the state's clean energy policies and objectives. The state's revised policy recognizes that effectively addressing climate change and enhancing resilience will advance the health, welfare, and safety of the residents of the Commonwealth. The Clean Energy Policy further recognizes that addressing climate change requires reducing greenhouse gas emissions across the Commonwealth's economy sufficient to reach net-zero emission by 2045 in all sectors, including the electric power, transportation, industrial, agricultural, building, and infrastructure sectors. To achieve this, it will be the policy of the Commonwealth to: 1) Develop energy resources necessary to produce 30 percent of Virginia's electricity from renewable energy sources by 2030 and 100 percent of Virginia's electricity from carbon-free sources by 2040; 2) Enable widespread integration of distributed energy resources, including energy storage and rooftop solar, into the grid to achieve decarbonization and to enhance resilience; 3) Support the distributed generation of renewable electricity encouraging private sector investments in distributed renewable energy, increasing the security

of the electricity grid by supporting distributed renewable energy projects and energy storage, and enhancing the ability of private property owners to generate their own renewable energy for their own personal use from renewable energy sources on their property. [SB1284](#) has passed the Senate and House.

Legislation That Failed to Pass-

The New Green Deal. The New Green Deal legislation ([HB1937](#)) died in committee without being considered. The clean energy requirements in the bill went much further than any state has gone and were not achievable within the required time period (80% by 2028 and 100% by 2036).

Renewable Energy Competition. Legislation ([HB2048](#)) to allow competitive suppliers to compete to provide renewable energy to Dominion and APCO retail customers died in the Senate Commerce and Labor Committee Monday.

SCC Rate Regulation Authority. Legislation to restore some of the authority of the Virginia State Corporation Commission to more effectively allow the SCC to regulate Dominion and APCO rates ([HB1984](#), [HB1914](#), [HB2049](#), [HB2160](#) and [HB2200](#)) also died in Senate Commerce and Labor. The Commission on Electric Utility Regulation (CEUR) is to look at these issues before the next General Assembly session.

Energy Related Legislation

Bill	Patron	Topic	Status
HB1756	Samirah	Prohibits contributions from public service corporations	Tabled by H. P & E Sub.
HB1800	Torian	Budget Bill	In Conference Committee
HB1811	Helmer	Procurement Act; preference for energy efficient goods	In Conference Committee
HB1834	Subramanyam	Utilities; closing of carbon emitting generation units	Passed House and Senate
HB1835	Subramanyam	Removes SCC limits ordering Dominion rate reductions	Incorporated into HB1914
HB1850	Reid	Weight limits; vehicles powered by electric batteries	Passed House and Senate
HB1855	Sullivan	Renames DMME as Dept. of Energy; other changes	On Senate floor
HB1859	Guy	Loan financing of clean energy and other programs	Passed House and Senate
HB1899	Hudson	Sunset of coal tax credits	Passed House and Senate
HB1906	Carter	Corporation campaign contributions prohibited	Left in H. P&E Committee
HB1907	Sullivan	Advanced renewable energy buyers	Passed House and Senate
HB1914	Helmer	Electric utilities; triennial rate cases; test periods	Died in Sen. C&L Comm.
HB1919	Kory	Local green banks	Passed House and Senate
HB1923	Ayala	Electric utilities; broadband capacity pilots; municipalities	Passed House and Senate
HB1925	Kilgore	Brownfield and coal mine renewable energy grant funds	Passed House and Senate
HB1934	Simon	Gas pipelines in residential areas	House L & C; sub. tabled
HB1937	Rasoul	Green New Deal Act	Left in House L & C
HB1965	Bagby	Low and zero emissions vehicle program	Passed House and Senate
HB1979	Reid	Electric vehicle rebate program ¹	In Conference Committee
HB1984	Hudson	Electric utilities; rates of return	Died in Sen. C&L Comm.
HB1994	Murphy	Small agricultural generators; definition	Passed House and Senate
HB2001	Helmer	Building standards for certain state and local buildings	On Senate floor
HB2006	Heretick	Tax exemptions for energy storage systems	Passed House and Senate
HB2023	Poindexter	Solar and wind farms; reporting of acreage	Tabled in H. CC & T sub.
HB2034	Hurst	3 rd party PPAs; non-jurisdictional customers	Passed House and Senate

¹ HB1979 has a House approved budget amendment - Item 125 #1h

HB2048	Bourne	Electric utilities; purchasing from competitive suppliers	Died in Sen. C&L Comm.
HB2049	Bourne	Electric utilities; customer credit reinvestment offsets	Died in Sen. C&L Comm.
HB2057	Ware	Electric utilities; triennial review	Incorporated into HB2200
HB2067	Webert	Solar facilities; permit by rule	Tabled in H. ACNR
HB2074	Simonds	Environmental justice; interagency working group	On Senate floor
HB2095	O'Quinn	City of Bristol Charter	Passed House and Senate
HB2118	Keam	Electric vehicle grant fund and program	In Conference Committee
HB2148	Willett	Small renewable energy storage projects ²	On Senate floor
HB2160	Tran	Electric utilities; fair rate of return; customer credits	Died in Sen. C&L Comm.
HB2200	Jones	Electric utilities; triennial review	Died in Sen. C&L Comm.
HB2201	Jones	Solar and energy storage projects; siting agreements	Passed House and Senate
HB2214	O'Quinn	State to develop broadband map	Left in H. Appropriations
HB2215	Runion	Small agriculture generators; licenses	Incorporated into HB1994
HB2221	Hayes	Environmental permits; environmental justice outreach	Left in Senate Ag.,C&NR
HB2224	Head	Broadband service providers; railroad crossings	Tabled in House CCT & I
HB2227	Kory	Uniform Statewide Building Code; energy efficiency	On Senate floor
HB2265	Freitas	Utilities; development of renewable energy facilities	House L & C; sub. #3; PBI
HB2269	Heretick	Revenue share for solar energy projects	Passed House and Senate
HB2281	Ware	Virginia Clean Economy Act; non-bypassable charges	House L & C sub #3 tabled
HB2282	Sullivan	SCC; transportation electrification; utility cost recovery	Passed House and Senate
HB2292	Cole, J.	Fossil fuel projects moratorium	Left in House L & C
HB2304	Tyler	Provision of broadband capacity by Dominion and APCO	Passed House and Senate
HB2307	Hayes	Consumer Data Protection Act	Passed House and Senate
HB2330	Kory	Percentage of Income Payment Program (PIPP)	In Conference
HJ538	Aird	Access to water; human right	Passed House and Senate
HJ541	McNamara	Study effects of Daylight Saving Time on Commonwealth	Tabled in H. Rules
HJ549	Guy	COVID-19; JLARC Study of impact on schools	Left in Senate Rules
HJ559	Guzman	Recognizing climate change is caused by human activity	Left in House Rules
HR251	Ward	Nominations to the State Corporation Commission	Passed
SB1100	Howell	Budget Bill	In Conference
SB1201	Petersen	Taxation; electric suppliers; storage	Passed Senate and House
SB1207	Barker	Solar energy; siting agreements ³	Passed Senate and House
SB1223	Boysko	Transportation electrification; Virginia Energy Plan	Passed Senate and House
SB1224	Boysko	Building Code; energy efficiency and conservation	Left in Senate GL & T
SB1225	Boysko	Broadband services; education	Passed Senate and House
SB1236	Petersen	Utilities prohibited from making campaign contributions	Failed 5-10 in Senate P & E
SB1247	Deeds	Closure of carbon-emitting generating units	Passed Senate and House
SB1252	McPike	Sunset of coal tax credits	Passed Senate and House
SB1258	Marsden	Solar projects; erosion sediment and control ⁴	Passed House w/amend.
SB1282	Morrissey	Greenhouse gas emissions; inventory	Passed Senate and House
SB1284	Favola	Commonwealth Clean Energy Policy	Passed Senate and House
SB1292	McClellan	Electric utility overearnings; customer bill credits	PBI in Senate C & L
SB1295	DeSteph	Electric utilities; procurement	Passed Senate and House

² HB2148 has a House approved budget amendment - Item 378 #2h.

³ SB1207 has a Senate approved budget amendment – Item 377 #1s

⁴ SB1258 has a Senate approved budget amendment – Item 377 #2s

SB1334	Edwards	Municipal broadband authorities; pilot program	Passed Senate and House
SB1373	McClellan	Environmental permits; environmental justice outreach	Left in Senate Ag, C & NR
SB1374	Lewis	Carbon Sequestration Task Force; report	Passed Senate and House
SB1380	Lucas	Electric school bus projects; report	In Conference Committee
SB1385	Surovell	Fairfax Co. underground utility lines	On House floor w/amend.
SB1392	Marsden	Consumer Data Protection Act	Passed Senate and House
SB1413	Boysko	Provision of broadband capacity by Dominion and APCO	Passed Senate and House
SB1420	Edwards	3 rd party PPAs; non-jurisdictional customers	Passed Senate and House
SB1453	Edwards	DMME; Code Commission bill	Passed Senate and House
SB1462	Mason	Virginia Digital Equity Pilot Program and Fund	Tabled in House Appr. Sub.
SB1463	Cosgrove	Covenants regarding solar power	Struck from Sen. GL&T
SJ289	Mason	Government sale of property; easements	Tabled in House P & E
SJ308	Lucas	COVID-19; JLARC Study of impact on schools	Passed Senate and House
SR103	Saslaw	Nominations to the State Corporation Commission	Passed

Budget Amendments

Item	Summary
479.10 #1s	This amendment removes the restriction that utility customers may only receive assistance from the COVID-19 Utility Assistance Fund once.
479.10 #1h	This amendment allows money for the utility assistance program funded with federal Coronavirus Relief Funds (CRF) to be applied to a customer's account more than once. In addition, it updates the timing of certain actions related to unspent federal Coronavirus Relief Funds due to the recent extension of their use by Congress.
377 #1s	This amendment provides \$115,000 the second year from the general fund and one position for the Department of Environmental Quality to administer permit-by-rule applications for energy storage projects pursuant to the provisions of SB 1207 of the 2021 General Assembly.
377 #2s	This amendment provides the funding (\$230,000) for staffing dedicated to the erosion and sediment control program to review for solar project permitting and provide this service to projects upon the request of a locality pursuant to the provisions of SB 1258 of the 2021 General Assembly.
378 #2h	This amendment provides \$115,500 from the general fund the second year and one position to implement the provisions of House Bill 2148.
125 #1h	This amendment provides \$5.0 million the second year from the general fund for the establishment of the Electric Vehicle Rebate Program, established pursuant to House Bill 1979.
125 #2h	This amendment directs the Department of Mines, Minerals, and Energy to establish a work group to assess the feasibility of creating a Virginia Residential Property-Assessed Clean Energy (R-PACE) Program.
135 #2s	This amendment provides \$100,000 GF the second year for the Virginia Nuclear Energy Consortium Authority as a one-time planning grant to develop a nuclear research and innovation hub in Virginia.
4-14 #2s	This utility debt forgiveness amendment requires that Dominion Energy write off debt owed as of December 31, 2020.