

# 2018 Legislative Position & Issues of Concern

Garden Club of Virginia Conservation and Beautification Committee January 2018

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## SUMMARY

The Garden Club of Virginia is an active association of 47 clubs, whose members together form a group of more than 3,300 civic leaders from around the Commonwealth. Guided by its mission statement, the Garden Club of Virginia considers the following positions, budget requests and bills currently before the 2018 Session of the Virginia General Assembly commensurate with its mission.

Therefore the Garden Club of Virginia:

## **SUPPORTS LEGISLATIVE ACTION THAT PROTECTS AND ENHANCES VIRGINIA STATE PARKS**

The Garden Club of Virginia has a long history of supporting Virginia's State Parks, as they provide not only recreation but environmental education, land conservation and water quality protection as well as protection of flora and fauna habitat.

The GCV urges members of the General Assembly to support Virginia State Parks capital budget requests totaling \$222,251,486 for 2018-2020 as well as operating budget requests totaling \$6,352,912 for FY2019 and \$6,384.166 for FY2020.

## **SUPPORTS ENVIRONMENTAL EDUCATION**

The Garden Club of Virginia is a charter member of the Virginia No Child Left Inside Coalition, which works to improve conservation education so that all Virginia students will graduate from high school environmentally literate.

The Garden Club of Virginia urges members of the General Assembly to support items in the proposed budget that create two positions, housed under the Secretary of Education, to coordinate environmental education efforts in Virginia. The two new positions would support communication, foster collaboration between formal and informal educators, provide a "depot" for lesson plans, and offer professional development opportunities.

## **OPPOSES OIL AND GAS DRILLING AND SEISMIC AIRGUN TESTING OFF THE COAST OF VIRGINIA**

In January 2016 the GCV stated its opposition to the Bureau of Ocean Energy Management (BOEM) 2017-2022 oil and gas drilling leasing plan for drilling off the Virginia Coast. In July 2016 the GCV stated opposition to seismic airgun testing off the Virginia coast. In 2016 all of the Atlantic coast was removed from the final BOEM 2017-2022 plan by the Obama Administration, and in January 2017 the seismic testing permit process was cancelled.

On January 4, 2018 a new 2019-2024 5-Year Outer Continental Shelf Oil and Gas Leasing Plan was announced, which will allow lease sales off the Atlantic coast of Virginia, North Carolina, South Carolina, and Georgia. This plan omits the 50-mile buffer off the coast previously included in such plans.

The Garden Club of Virginia strongly urges Governor Northam and the Virginia General Assembly to formally oppose oil and gas drilling and seismic airgun testing off Virginia's Coast in order to protect Virginia's coastal economies, communities and important habitat.

**Governor Northam, Senators Kaine and Warner, and Congressman Taylor have contacted Interior Secretary Zinke and requested Virginia be removed from the Plan**

## NATURAL GAS PIPELINES

Two major high pressure interstate natural gas pipelines are in the permitting process in Virginia. To avoid unnecessary and negative ecological and economic impacts to our communities, our forests and our natural resources, waterways, and drinking water, the GCV has supported more stringent permitting requirements, including more rigorous Environmental Impact Studies and an analysis of the need for additional pipelines. Without adequate analysis, however, the Federal Energy Regulatory Commission (FERC) approved the pipelines in 2017. The agency's decision included a powerful dissent from one Commissioner who concluded that the pipelines were not in the "public interest." Requests for re-hearings are pending before the Commission.

In December 2017 the Virginia State Water Control Board approved the permit for construction of the proposed Mountain Valley Pipeline. Also in December 2017 the Virginia State Water Control Board approved the permit for the proposed Atlantic Coast Pipeline but delayed its effective date until at least Spring 2018, pending the completion of erosion control plans and other plans related to water quality.

The Commonwealth of Virginia has an important role and authority to protect water quality in the pipeline permitting process.

Our Governor has supported the requests that the Federal Energy Regulatory Commission reconsider its decision. We ask that our Governor and the General Assembly insist upon reform of the FERC permitting process, which currently does not adequately assess impacts, alternatives, or the need for duplicative, competing gas pipeline proposals like the Atlantic Coast and Mountain Valley projects.

All of these bills left in committee

### **Support HB1294 Sam Rasoul Interstate natural gas pipeline construction; water quality impact bonds; statewide halt.**

Requires any company that plans to construct an interstate natural gas pipeline in Virginia to post a performance bond with the State Water Control Board (the Board) in an amount sufficient to ensure that the Board could address and remediate any adverse water quality impact that arises out of the construction. The bill provides that if the Board determines that construction activity has caused or threatens to cause an adverse water quality impact, the Board shall undertake conservation action to address and remediate the identified water quality impact and issue an order to halt any construction on each interstate natural gas pipeline under construction in Virginia. The bill requires the Board to certify that the identified water quality impact has been fully addressed and remediated before construction on any pipeline can resume. The bill directs the Board to promulgate regulations to implement these provisions to be effective within 280 days of the bill's enactment. Referral: pending

### **Support HB1141 Sam Rasoul Interstate natural gas pipeline; Virginia Water Protection Permit; regulations.**

Directs the State Water Control Board (the Board), regarding interstate natural gas pipeline projects, to (i) require both a Virginia Water Protection Permit and an Individual Water Quality Certification under § 401 of the federal Clean Water Act; (ii) review water body crossings, construction through karst terrain, and plans for control of erosion, sediment, and stormwater; (iii) prohibit any land-disturbing activity,

including tree felling, prior to the issuance of a Water Quality Certification; and (iv) require horizontal directional drilling for certain crossings of large water bodies. The bill also provides that the Board shall not voluntarily waive its authority to require an Individual Water Quality Certification under § 401 of the Clean Water Act and directs the Board to expedite the adoption of regulations to carry out its provisions. Referral: pending

**Support HB1188 Chris L Hurst Natural gas pipelines; contingency plan; operation; discharge; penalty.**

Requires the operator of any natural gas pipeline of a certain size, prior to operation, to commission an independent test of the quality of ground water for each property in the right-of-way and to file a gas discharge contingency plan that is approved by the State Water Control Board (the Board). The bill authorizes the Board to adopt regulations requiring testing and inspection of the pipeline and annual retesting of ground water at properties in the right-of-way and a demonstration of financial responsibility by the operator. The bill prohibits the discharge of gas, establishes penalties for those discharging or causing or permitting a discharge or a substantial threat of such discharge, and establishes legal liability and defenses. The bill requires any person discharging gas immediately to report it to the Board and to local authorities but allows a discharge of up to 25 standard cubic feet of gas to be reported to the Board through normal recordkeeping. The bill requires recordkeeping by the pipeline operator, authorizes the Board to collect administrative fees, and provides for enforcement and civil and criminal penalties Referral: pending

**Support HB1187 Chris L Hurst and SB324 John S Edwards Natural Gas companies; right of entry upon property.**

Curtails the ability of a natural gas company to enter upon real property for the purpose of conducting surveys and other tests for its proposed line or the location of facilities. The measure prohibits a natural gas company from entering upon property for such purposes unless the State Corporation Commission (Commission) has issued to it a public use certification, which may be issued only if the Commission finds, among other things, that the company has demonstrated that the pipeline or facility is for a public use. The measure also (i) establishes an expedited procedure for a landowner to seek injunctive relief; (ii) authorizes a landowner to bring a civil action for damages, including liquidated damages of \$500 per day per individual entering or attempting to enter property in violation of applicable requirements; (iii) requires a natural gas company to pay treble damages for any actual damages resulting from a lawful entry; (iv) authorizes the landowner or his agent to accompany surveyors and record or photograph survey activities; (v) requires any notice of intent to enter to set forth the time and location where the first entry will occur and the duration of the surveys; and (vi) requires any request for permission to inspect to be sent at least 21 days prior to any notice of intent to enter and include a description of each type of survey and each entity or agent proposed to make such survey. House Referral: pending Senate Referral: Commerce and Labor

**SUPPORTS LEGISLATIVE ACTION THAT PROTECTS AND CONSERVES OUR  
NATURAL RESOURCES AND OPPOSES EFFORTS TO WEAKEN THOSE  
PROTECTIONS**

Both of these bills had low support and were left in committee.

**Oppose HJ111 Christopher T Head Constitutional amendment (second resolution); powers of General Assembly; suspensions.**

Provides that the General Assembly may suspend or nullify any or all portions of any administrative rule or regulation by a joint resolution agreed to by a majority of the members elected to each house. The amendment also grants to the General Assembly the authority to authorize a legislative committee or legislative committees acting jointly or a legislative commission to suspend any or all portions of any administrative rule or regulation while the General Assembly is not in a regular session. Such suspension would continue until the end of the next regular session. Referral: pending

This bill would give the General Assembly broad powers without the involvement of the Judiciary and Executive branches, as required in the Virginia Constitution. This means that ANY regulation or rule including those that protect our environment such as toxic materials in waterways or safety steps for pipelines, for example, could be nullified by the General Assembly without the check and balance of the Executive. The potential impact of this is to weaken land conservation efforts, weaken existing state protections related to coal ash, weaken protections to water and any natural resources, and weaken regulations on pipelines, all concerns of GCV. Additionally it would weaken consumer protections relative to health, education, and finance. The current legislative process is in place to deal with questions of rule and regulation changes.

**Oppose HB1213 Christopher T Head Constitutional amendment (ballot bill); powers of General Assembly; suspension or nullification.**

Provides for a referendum at the November 6, 2018, election to approve or reject an amendment that would permit the General Assembly to suspend or nullify any or all portions of any administrative rule or regulation by a joint resolution agreed to by a majority of the members elected to each house. The amendment would also grant the General Assembly the authority to authorize a legislative committee or legislative committees acting jointly or a legislative commission to suspend any or all portions of any administrative rule or regulation while the General Assembly is not in a regular session. Such suspension would continue until the end of the next regular session. Referral: Pending

**SUPPORTS LEGISLATIVE ACTION TO STRENGTHEN LAND CONSERVATION AND  
OPPOSES EFFORTS TO WEAKEN LAND CONSERVATION**

The Garden Club of Virginia strives for preservation and beautification of open spaces, historic areas, and environmentally sensitive habitats by promoting responsible, effective land use planning.

After last session's demonstrated support for the Land Preservation Tax Credit program, the General Assembly should make no changes that would reduce the impact and availability of this important land

conservation tool. The cap should not go below \$75 million and the annual use limit should go back to \$50,000 per individual.

Continue to support the three Conservation Grant Programs as enacted under HB1398 in 2013. Funding for 2018 should be \$20 million, allocated as follows: \$16 million for the Virginia Land Conservation Foundation, \$2 million for the Office of Farmland Preservation, and \$2 million for the Virginia Battlefield Preservation Fund.

Support measures that provide full funding for the Virginia Outdoors Foundation in order to ensure it is able to accept, hold, and provide adequate stewardship of conservation easements.

## **SUPPORTS LEGISLATIVE INITIATIVES TO ADDRESS CLIMATE CHANGE AND RECURRENT FLOODING**

The GCV has supported state-wide attention to study and address climate change phenomena, educate the public about causes and consequences of climate change, promote the control of greenhouse gas emissions, protect the Chesapeake Bay and its tributaries, and support sustainable forests to protect Virginia watersheds and promote clean air.

### **Support HJ27 Christopher P Stolle Coastal flooding adaptation and resiliency report: JLARC to study.**

Directs the Joint Legislative Audit and Review Commission (JLARC) to study ongoing efforts throughout the Commonwealth with regard to coastal flooding adaptation and resiliency. The resolution directs JLARC, in conducting its study, to (i) conduct an assessment of the economic exposure of the Commonwealth from a natural disaster; (ii) conduct a comprehensive review of state resources currently available to businesses following a natural disaster; (iii) assess the adequacy and effectiveness of the Commonwealth's coastal flooding and adaptation development programs, particularly in Hampton Roads, the Peninsula, and the Northern Neck; (iv) assess how effectively the state and local governments develop, manage, and oversee coastal flooding and adaptation practices and strategies; (v) examine best practices and strategies used by the public and private sectors in other states and other countries to manage and "live with" water through successful coastal flooding and adaptation strategies; and (vi) review any other issues and make recommendations as appropriate.

Left in House Rules Committee

### **Support HJ26 Christopher P Stolle and SJ19 Mamie E Locke Study continuing the Joint Subcommittee on Coastal Flooding; report.**

Continues the Joint Subcommittee on Coastal Flooding for two additional years, through the 2019 interim. Passed both houses

### **Support HB345 Christopher P Stolle Secretary of Coastal Protection and Flooding Adaptation.**

Creates the executive branch position of Secretary of Coastal Protection and Flooding Adaptation. Requires the Secretary, in cooperation with the Secretary of Natural Resources, to identify sources of

funding for implementation of strategies for coastal protection and flooding adaptation.

Passed both houses

**Support HB1273 David L Bulova Virginia Alternative Energy and Coastal Protection Act.**

Directs the State Air Pollution Control Board to adopt regulations establishing a carbon dioxide cap and trade program to reduce emissions released by electric generation facilities. The regulations are required to comply with the Regional Greenhouse Gas Initiative model rule. The measure authorizes the Director of the Department of Environmental Quality to establish, implement, and manage an auction program to sell allowances into a market-based trading program. The measure requires revenues from the sale of carbon allowances, to the extent permitted by Article X, Section 7 of the Constitution of Virginia, to be deposited in an interest-bearing account and to be distributed without further appropriation (i) to the Virginia Shoreline Resiliency Fund, (ii) to the Virginia SAVES program, (iii) for certain programs in Southwest Virginia, and (iv) for administrative expenses.

Left in House Commerce and Labor Committee

<p><b>SUPPORTS ENERGY LEGISLATION THAT CONSERVES AND PROTECTS OUR NATURAL RESOURCES AND OPPOSES EFFORTS TO WEAKEN THEM</b></p>
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**Support HB392 Mark L Keam Electric Utility regulation; Solar Energy.**

Declares that it is in the public interest for the electrical supply of the Commonwealth to include at least 10 percent electricity derived from sunlight from facilities located in the Commonwealth, including distributed generation facilities owned or operated by or on behalf of customers. The measure also increases, from 500 megawatts to 15,000 megawatts, the aggregate rated capacity of solar energy generation facilities located in the Commonwealth as to which their construction or purchase by a utility is in the public interest. Left in House Commerce and Labor Committee

**Support HB54 Richard C Sullivan Jr. Renewable energy property; tax credit for property placed in service.**

Establishes, beginning in taxable year 2018, a tax credit for renewable energy property placed in service. The bill defines "renewable energy property" as certain biomass equipment that uses renewable biomass resources, combined heat and power systems using waste heat to produce electricity or thermal or mechanical energy, certain geothermal equipment, hydroelectric generators located at existing dams or in free-flowing waterways, solar energy equipment, and wind equipment that is necessary for capturing and converting wind energy into electricity or mechanical power. The credit would equal 35 percent of the installed cost of the renewable energy property. However, the aggregate amount of credit allowed to each person for placing into service renewable energy property during the taxable year would not exceed \$15,000. Only the ultimate consumer or user of the renewable energy property would be allowed to claim the credit. The credit would be required to be claimed in five equal annual installments beginning with the taxable year in which the property was placed in service. However, the amount claimed in a single year would not be allowed to exceed 50 percent of the person's total tax liability. The credit would expire and no further credit could be claimed if the



renewable energy property was disposed of, taken out of service, or moved out of the Commonwealth during any of the installment years. The Department of Taxation would issue the tax credits. The Department would be authorized to issue \$5 million in tax credits each fiscal year. Any unused credit could be carried forward for five taxable years. The credit would sunset in 2023. **Left in House Finance Committee**

## **SUPPORTS EFFORTS TO PROTECT AND IMPROVE WATER QUALITY AND OPPOSES EFFORTS THAT WEAKEN WATER QUALITY**

**The Garden Club of Virginia is concerned about the risks of toxic materials polluting our waterways and drinking water.**

### **Oppose HB904 Roxann L Robinson Virginia Freedom of Information Act (FOIA); general exclusion for trade secrets.**

Creates a general record exclusion for trade secrets submitted to a public body. The bill provides that a record is eligible for exclusion as a trade secret if the submitted information qualifies as a trade secret of the submitting entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) and requires the submitting entity to make a written request to the public body (i) invoking such exclusion upon submission of the trade secret information for which protection from disclosure is sought, (ii) identifying with specificity the trade secret information for which protection is sought, and (iii) stating the reasons why protection is necessary. The bill permits a requester filing a FOIA petition challenging a record's designation as an excluded trade secret to name the submitting entity or its successor in interest, in addition to the public body, as a defendant. The bill also permits the public body to request that the court add the submitting entity as an additional defendant in the action. The bill provides that the general exclusion for trade secrets shall not be construed to authorize the withholding of such information that no longer meets the definition of a trade secret under the Uniform Trade Secrets Act. **Left in House General Laws Committee**

### **Oppose HB905 Roxann L Robinson Virginia Freedom of Information Act (FOIA); designation of trade secrets and proprietary information.**

Provides that a bidder, offeror, or contractor shall not improperly designate as trade secrets or proprietary information (i) an entire bid, proposal, or prequalification application; (ii) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (iii) line item prices or total bid, proposal, or prequalification application prices. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. **Passed both houses, signed by Governor**

Both of these bills would allow exemptions to any trade secret, including fracking chemicals from FOIA.

The GCV continues to ask that the General Assembly not allow any further weakening of existing state protections related to coal ash. All coal ash impoundments should be subject to strict permitting and

siting requirements. The State should require the removal of all coal ash to modern dry storage facilities, away from rivers and drinking water supplies.

**Support HB182 Jennifer Carroll Foy and SB708 Amanda F Chase Combustion residual unit; closure by 2022.**

Directs the Department of Environmental Quality to require the closure by July 1, 2022, of any coal combustion residuals (CCR) surface impoundment located in the Chesapeake Bay watershed. The bill requires that such closure include the removal of all coal combustion residuals for disposal in a permitted landfill that meets federal criteria and that the impoundment site be reclaimed in a manner consistent with federal mine reclamation standards. The bill allows an investor-owned public electric utility to recover the costs of closure from customers. Finally, the bill suspends the issuance of any permit to close a CCR surface impoundment in the Chesapeake Bay watershed between May 1, 2018, and July 1, 2018. **Left in House Commerce and Labor; Senate bill incorporated into SB807 Surovell, that passed both houses**

**The GCV has supported efforts to enhance oyster replenishment and restoration, as it enhances water quality as well as providing habitat for other economically important species such as blue crabs and striped bass. Each adult oyster can filter up to 50 gallons of water daily, removing pollution and increasing water quality in the Chesapeake Bay and its tributaries, such as the Rappahannock.**

We support funding in Virginia's biennial budget to include \$3.5 million for wild oyster replenishment and \$0.5 million for ecological restoration.

<b>SUPPORTS MANAGING POLLUTED RUNOFF TO PROTECT VIRGINIA'S WATERWAYS</b>
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The Stormwater Local Assistance Fund provides matching funds for localities for stormwater improvement projects. Support funding by the General Assembly of the Stormwater Local Assistance Fund, at a level of at least \$50 million in addition to the current appropriated funds.

Agricultural Best Management Practices Cost Share Program offers financial and technical support to farms to implement practices to restore and improve water quality such as stream exclusion systems and cover crops. Support funding of \$100 Million for Agricultural Best Management Practices Cost Share Program for FY19

<b>SUPPORTS LEGISLATION ALLOWING FOR CONTROL OF PROLIFERATION OF DISPOSABLE PLASTIC BAGS</b>
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The Garden Club of Virginia has consistently supported legislation to reduce the use of single-use plastic bags because of the negative impacts on the environment.

**Support SB139 J. Chapman Petersen Chesapeake Bay Watershed; imposes a tax on plastic bags provided to customers in certain localities.**

Imposes a five-cent per bag tax on plastic bags provided to customers by certain retailers in localities located wholly within the Chesapeake Bay Watershed and directs revenues to be used to support the Chesapeake Bay Watershed Implementation Plan. The bill also allows every retailer that collects the tax to retain one cent of the five-cent tax. **Defeated in Finance**

**Support HB981 Debra H. Rodman Local disposable paper and plastic bag tax.**

Authorizes any locality to impose a five-cent per bag tax on disposable paper bags or disposable plastic bags provided to customers by certain retailers, with certain bags being exempt from the tax. Revenues from the local tax would be collected by the Tax Commissioner and distributed monthly to the county or city imposing the tax to be used by such locality for pollution and litter mitigation. The bill requires each county or city adopting an ordinance to impose the tax to provide a certified copy of the ordinance to the Tax Commissioner at least six months prior to the date the tax is to become effective. The bill also allows every retailer that collects the tax to retain one cent of the five-cent tax. **Left in House Finance**

<b>SUPPORTS LEGISLATION ENCOURAGING CIVIC PLANTING</b>
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**Support HJ15 Delores I. McQuinn Community Gardens; Sec. of HHR to study use of gardens to eliminate food deserts in the Commonwealth.**

Requests the Secretary of Health and Human Resources to study use of community gardens as a method of eliminating food deserts in the Commonwealth. In conducting the study, the Secretary is requested to (i) examine options for increasing access to healthy and affordable food products for low-income and poor citizens and impoverished communities throughout the Commonwealth and (ii) evaluate the benefits of and barriers to use of community gardens as an option for increasing access to healthy and affordable food for products for low-income and poor citizens and impoverished communities throughout the Commonwealth and develop recommendations for overcoming such barriers. The Secretary of Health and Human Resources must submit his findings and recommendations to the 2019 Regular Session of the General Assembly. **Left in House Rules**

<b>BILLBOARDS</b>
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The Board of Directors of the GCV recommends continued vigilance over the placement/replacement permitting of large roadside advertising, including LED advertising.

**Oppose HB361 Nick Rush Billboards; relocation of certain signs.**

Provides that a lawfully erected billboard sign may be relocated whenever such billboard sign is affected by the construction of a pedestrian bridge. The bill requires the Department of Transportation to place any permanent sign located in the highway right-of-way in such a location that it does not affect the

visibility of a lawfully erected billboard sign. If such placement is not possible, such billboard may be relocated. [Left in House Transportation](#)

This bill would allow the grandfathering of signs not compliant with current requirements to be moved.

### **Other Issues of Concern**

<b>SUPPORTS CONTINUING THE BAN ON URANIUM MINING</b>
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The Garden Club of Virginia continues to strongly support the continuation of the moratorium on uranium mining in Virginia until the Commonwealth is assured that the mining can be done safely, and that financial resources are available to fund a sufficiently long-term regulatory oversight system to conserve and protect Virginia's natural resources.