

Virginia Planning & Zoning 2017 Legislative Update

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PLANNING & LAND USE

HB 1476 (Orrock, Sr.): Real property tax; special assessment for land preservation. Prohibits any locality from requiring any taxpayer who is the lessor of real property to produce the lease for the purpose of determining whether the property is eligible for special assessment for land preservation.

HB 1686 (Hodges): Planning district commissions; Indian tribes; membership. Permits certain Indian tribes recognized by the federal government to join planning district commissions as members and to negotiate the terms of such membership.

HB 1781 (Plum): Farmers markets; farm and forest land conversion; plans. Removes the requirements that certain agencies analyze the impact of regulations on the conversion of farm and forest lands and that the Commissioner of Agriculture and Consumer Services summarize the reports of the operators of state-owned farmers markets to the General Assembly.

HB 1936 (Carr): Derelict and blighted buildings; land banks; receivership. Authorizes a locality to petition the circuit court to appoint a land bank entity to act as a receiver in certain limited circumstances to repair derelict and blighted buildings that contain residential dwelling units.

HB 1994 (Habeeb): Board of zoning appeals. Clarifies that provisions that currently state that appeal costs may not be awarded against the locality unless it appears to the court that the locality acted in bad faith also apply to the governing body.

HB 2319 (Miyares): National Flood Insurance Program; participation by localities; report. Requires the Secretary of Natural Resources to issue a report by November 1, 2018, listing any locality not participating in the Community Rating System of the National Flood Insurance Program and recommending any legislation necessary to encourage participation.

HJ 640 (Lopez): Public Lands Day. Designates the last Saturday in September, in 2017 and in each succeeding year, as Public Lands Day in Virginia.

SB 932 (Favola): Conveyance of utility easements; transportation. Exempts from the public hearing requirement prior to disposal of real property by a locality the conveyance of utility easements related to transportation projects. This bill incorporates SB 1259.

SB 963 (Hanger, Jr.): Land preservation tax credit; per taxpayer limitation. Extends to taxable year 2017 the \$20,000 limit on the amount that a taxpayer may claim per year under the land preservation tax credit. The bill retains the \$50,000 limit for each subsequent taxable year.

SB 1286 (Obenshain): Land preservation tax credits; withholding tax of nonresident owners. Provides that the two percent transfer fee for land preservation tax credits shall not apply to a distribution of credits to a nonresident owner of a pass-through entity when such credits are applied by the pass-through entity to the withholding tax of the nonresident owner.

HB 1697 (Marshall, III): Extension of approvals to address housing crisis. Extends the sunset date for several measures related to various land use approvals from July 1, 2017, to July 1, 2020. The bill also expands the scope of such measures that will be subject to the extension to include those measures approved by January 1, 2017.

HB 1766 (Habeeb): Utility Facilities Act; associated facilities of an electrical transmission line. Provides that the issuance by the State Corporation Commission of a certificate of public convenience and necessity for construction of an electrical transmission line of 138 kilovolts and any associated facilities shall be deemed to satisfy local comprehensive plan requirements and all local zoning ordinances with respect to the transmission line and associated facilities. The measure defines "associated facilities" as including any station, substation, transition station, and switchyard facilities to be constructed outside of any county operating under the county executive form of government that is located in Planning District 8 (e.g., Prince William County) in association with the 138 kilovolt transmission line.

HB 1797 (Stolle): Amendment of proffers; notice. Provides that when any landowner applies to the governing body for amendments to proffered conditions, direct mail notice shall be given to those directly affected by the amendment.

HB 2035 (Miller): Electronic filing of land records; fee for paper filing. Provides that a clerk of a circuit court that has established an electronic filing system for land records may charge a fee not to exceed \$5 per instrument for every land record filed by paper. This bill is identical to SB 870.

HB 2108 (Byron): Virginia Wireless Services Authority Act; rates and charges. Provides that a wireless services authority may fix rates, fees, and charges for services provided, or facilities owned, operated, or maintained by the authority, for which the authority has received loan funding. Currently, an authority may do so only if it has issued revenue bonds. A similar change authorizes rates to be set at levels to provide for payment of loans. The measure also requires each authority to maintain records demonstrating compliance with certain provisions and to make the records available for inspection and copying by the public pursuant to the Virginia Freedom of Information Act.

HB 2460 (Bloxom, Jr.): Historic rehabilitation tax credit. Limits the amount of historic rehabilitation tax credits that may be claimed by each taxpayer to \$5 million per year, including any amounts carried over from prior taxable years, for taxable years beginning on and after January 1, 2017, but before January 1, 2019. This bill is identical to SB 1034.

HB 2469 (Jones): Zoning; delinquent charges. Provides that the local treasurer may give authorization in an instance where a land use applicant is required to first provide satisfactory evidence that various taxes or charges have been paid.

SB 870 (Stuart): Electronic filing of land records; fee for paper filing. Provides that a clerk of a circuit court that has established an electronic filing system for land records may charge a fee not to exceed \$5 per instrument for every land record filed by paper. This bill is identical to HB 2035.

SB 1173 (Obenshain): Vested property rights. Provides that if a structure is one that requires no permit, and an authorized local government official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. The bill provides that in any proceeding when the authorized local government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized local government official made such statement. The provisions of the bill are declared to not be deemed retroactive.

SB 1203 (Lewis, Jr.): Working waterfront development areas; establishment. Authorizes localities, by ordinance, to establish a working waterfront development area and grant certain incentives and regulatory flexibility to private entities for the development of working waterfronts in such area.

SB 1282 (McDougle): Wireless communications infrastructure. Provides a uniform procedure for the way in which small cell facilities on existing structures are approved by localities and approved and installed in public rights-of-way. The measure includes provisions that establish requirements applicable to the location of micro-wireless facilities. The measure also addresses restrictions by localities and the Department of Transportation regarding the use of public rights-of-way or easements and specifies when a permittee may be required to relocate wireless support structures.

SB 1559 (Petersen): Board of zoning appeals. Requires that the recipient of certain notices from the board of zoning appeals receive notice via registered mail to the last known address or usual place of abode of the property owner or its registered agent, if any, prior to the commencement of the 30-day appeal period.

SB 1578 (Norment, Jr.): Short-term rental of property. Authorizes a locality to adopt an ordinance requiring the registration of persons offering property for short-term rental. The bill defines "short-term rental" as the provision of a room or space suitable for sleeping or lodging for less than 30 consecutive days in exchange for a charge for the occupancy. Persons and entities already licensed or registered related to the rental or management of property by the Department of Health, the Real Estate Board, the Virginia Real Estate Time-Share Act, or a locality would not be required to register. The bill authorizes localities to impose penalties not to exceed \$500 per violation on persons who violate the registry ordinance. The bill amends the Alcoholic Beverage Control (ABC) Act to clarify that certain property rented on a short-term basis is considered a bed and breakfast establishment for purposes of ABC licensing and that the exception from ABC licensing for serving alcoholic beverages to guests in a residence does not apply if the guest is a short-term lessee of the residence. This bill incorporates SB 1579.

HOUSING & BUILDING CODES

HB 1422 (Ware): Virginia Consumer Protection Act; storm-related repairs. Provides that it is a prohibited practice under the Virginia Consumer Protection Act for a supplier to engage in fraudulent or improper or dishonest conduct while engaged in a transaction that was initiated (i) during a declared state of emergency or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is a licensed contractor. This bill is identical to SB 839.

HB 1475 (Orrock, Sr.): Common Interest Community Board; information on covenants; association disclosure packets. Requires the Common Interest Community Board to include in its current one-page form that accompanies association disclosure packets that are required to be provided to all prospective purchasers of lots located within a development that is subject to the Virginia Property Owners' Association Act that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law.

HB 1554 (Bulova): Property Owners' Association Act; amendment of declaration. Provides that except as otherwise provided in the declaration of a property owners' association, a declaration may be amended by a two-thirds vote of the owners. The bill is in response to the Virginia Supreme Court decision in February 2016 in Tvardek v. Powhatan Village Homeowners Association, Inc.

HB 1556 (Ware): Real Estate Appraiser Board; evaluations. Allows a licensed residential real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser to provide an evaluation of real estate or real property in connection with certain real estate-related financial transactions. This bill is identical to SB 1535.

HB 1585 (Campbell): Housing authorities; authorization by governing body of town. Provides that the governing body of a town, in addition to the governing body of a county or city as in current law, may authorize a housing authority to contract for the construction of additional housing or acquire land for, or purchase material for the construction or installation of, any sewerage, streets, sidewalks, lights, power, water, or any other facilities for such additional housing. This bill is identical to SB 1237.

HB 1623 (Yancey): Residential rental property. Removes a provision that allows a tenant to remain in a dwelling unit that has been foreclosed upon pursuant to the federal Protecting Tenants at Foreclosure Act because the Act expired on December 31, 2014, and is no longer in effect. The bill provides that the foreclosure of a residential

rental property shall act as a termination of the rental agreement by the owner of such property. In such case, the tenant may remain in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement until the successor owner gives a notice of termination of such month-to-month tenancy. The bill also provides how rental payments may be made during the period of the month-to-month tenancy. In addition, the bill requires a current owner of rental property who has entered into a written property management agreement with a managing agent and who has subsequently entered into a purchase agreement with a new owner to give written notice to the managing agent requesting payment of security deposits to the current owner prior to settlement with the new owner. The bill requires the managing agent to transfer the security deposits to the current owner and provide written notice to each tenant that his security deposit has been transferred. This bill is identical to SB 991.

HB 1869 (Lopez): Virginia Residential Landlord and Tenant Act; tenant obligations. Provides that in addition to complying with the terms of a rental agreement, a tenant is obligated to be financially responsible for the added cost of treatment or extermination of any insects or pests due to the tenant's unreasonable delay in reporting the existence of the insects or pests or the tenant's fault in failing to prevent infestation of any insects or pests in the area occupied.

HB 2006 (Carr): Virginia Fair Housing Law; rights and responsibilities with respect to the use of an assistance animal in a dwelling. Sets out the rights and responsibilities under the Virginia Fair Housing Law (§ 36-96.1 et seq.) with respect to maintaining an assistance animal in a dwelling. The bill establishes a process through which a person with a disability may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling, including any supporting documentation verifying the disability and disability-related need for an accommodation. Under the bill, a request for reasonable accommodation to maintain an assistance animal may be denied for any one of the following reasons: (i) the requester does not have a disability; (ii) the requester does not have a disability-related need for an assistance animal; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. The bill provides that whenever a request for a reasonable accommodation to maintain an assistance animal in a dwelling is denied for reasons other than that the requester does not have a disability or a disability-related need for an assistance animal, an interactive process shall be initiated to determine if there is an alternative accommodation that would effectively address the disability-related need. The bill also defines "assistance animal," "major life activities," "therapeutic relationship," and "physical or mental impairment." The bill provides that if any provision of its provisions is determined by the U.S. Department of Housing and Urban Development to be not substantially equivalent or otherwise inconsistent with the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., as amended, such provision shall not be enforceable. As introduced, this bill was a recommendation of the Virginia Housing Commission. This bill is identical to SB 1228.

HB 2033 (Miller): Landlord and tenant law; residential tenancies; landlord and tenant obligations and remedies. Provides that the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) (the Act) shall apply to all residential tenancies; however, a landlord who is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement may opt out of the Act by stating so in the rental agreement. The bill conforms general landlord and tenant law relating to residential tenancies to the Act, including the security deposits, lease terms, notice, and disclosure provisions. The bill also allows the landlord, for unclaimed security deposits, to submit such funds to the State Treasurer rather than the Virginia Housing Trust Fund and changes the requirement that a landlord make reasonable efforts to advise the tenant of the right to be present at the landlord's inspection to a requirement that written notice of the right be provided. The bill provides for a landlord to provide a tenant with a written statement of charges and payments over the previous 12 months rather than an accounting as required under current law. In addition, the bill includes any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety by the tenant or authorized occupants, guests, or invitees as an immediate nonremediable violation for which the landlord may terminate the tenancy. The bill also authorizes a landlord to dispose of the property of a deceased tenant if a personal representative has not been appointed by the circuit court. The landlord may proceed with the disposal after providing 10 days' notice. The bill (i) provides that authorized occupants, guests, or invitees must vacate the dwelling unit after the death of a sole tenant; (ii) allows a landlord to request during the pendency of an unlawful detainer action an order requiring the tenant to provide the landlord with access to the dwelling unit; (iii) adds oil to the utilities that may be included in ratio utility billing; (iv) requires the landlord to provide a written security deposit disposition statement following a move-out inspection and provides for the landlord to seek recovery for additional damages discovered after the security deposit disposition has been made, provided, however, that the

tenant may present evidence of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection; and (v) authorizes a landlord to retain an attorney to prepare or provide any required written notice and permits the use of an electronic signature or an electronic notarization.

HB 2045 (Miller): Property Owners' Association Act; designation of authorized representative by seller; association disclosure packet. Provides that unless expressly authorized by the Property Owners' Association Act (§ 55-508 et seq.) or the declaration or as otherwise provided by law, no association may require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs, (b) the geographical location of real estate signs, (c) the manner in which real estate signs are affixed to real property, and (d) the period of time after settlement when the real estate signs must be removed. In addition, no property owners' association may require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed by the Real Estate Board to serve as his authorized representative in the sale of a lot. The bill provides that if a request has been made to an association or its common interest community manager to furnish the disclosure packet and such packet is not provided within 14 days of the request, it shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The bill also authorizes the Common Interest Community Board to assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against the association or its common interest community manager. The bill also authorizes the Common Interest Community Board to receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under the Condominium Act, the Virginia Real Estate Cooperative Act, or the Property Owners' Association Act. This bill is identical to SB 1231.

HB 2203 (Torian): Manufactured Home Lot Rental Act; notice to tenant of building code violation; renewal of lease. Requires the Department of Housing and Community Development to consider including in the current revision of the Uniform Statewide Building Code a provision designed to ensure that localities provide appropriate notice to residents of manufactured home parks of any Building Code violation by a park owner that jeopardizes the health and safety of those residents and to report to the General Assembly regarding the status of such efforts no later than November 1, 2017. The bill contains an emergency clause.

SB 812 (Marsden): Board for Asbestos, Lead, and Home Inspectors; home inspections; required statement related to the presence of yellow shaded corrugated stainless steel tubing. Provides that whenever a home inspector observes the presence of any shade of yellow shaded corrugated stainless steel tubing during an inspection of a home built prior to the adoption of the construction code effective in 2008, his observation must be included in the inspection report along with the following statement: "Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia."

SB 919 (Edwards): Removal of blight; building collapse. Allows a locality to charge owners of property the cost the locality incurred in removing or repairing a building or structure on such property if permitted under the Virginia Uniform Statewide Building Code in the event of an emergency.

SB 966 (Obenshain): Residential rental property. Provides that if a residential dwelling unit is foreclosed upon and a tenant is lawfully occupying the dwelling unit at the time of the foreclosure, the foreclosure shall act as a termination of the rental agreement by the landlord. The bill also provides that, if there is in effect at the date of the foreclosure sale a written property management agreement between the landlord and a real estate licensee licensed pursuant to the provisions of § 54.1-2106.1, the foreclosure shall convert the property management agreement into a month-to-month agreement between the successor landlord and the real estate licensee acting as a managing agent, except in the event that the terms of the original property management agreement between the landlord and the real estate licensee acting as a managing agent require an earlier termination date. Except in the event of foreclosure, the bill permits a real estate licensee acting on behalf of a landlord client as a managing agent who elects to terminate the property management agreement to transfer any funds held in escrow by the licensee to the landlord client without his consent, provided that the real estate licensee provides written notice to each tenant that the funds have been so transferred. The bill provides that, in the event of foreclosure, a real estate licensee shall not transfer any funds to a landlord client whose property has been foreclosed upon. The bill provides immunity, in the absence of

gross negligence or intentional misconduct, to any such licensee acting in compliance with the provisions of § 54.1-2108.1. The bill clarifies that a tenant residing in a dwelling unit that has been foreclosed upon is eligible to file an assertion pursuant to § 55-225.12 and that a court may order any moneys accumulated in escrow to be paid to the successor landlord or the successor landlord's managing agent, if any.

SB 1037 (Locke): Virginia Residential Property Disclosure Act; required disclosures; local historic districts.

Advises a prospective purchaser of residential property under the Virginia Residential Property Disclosure Act, upon delivery of the residential property disclosure statement wherein the owner makes no representations with respect to the presence of a historic district, to review any materials available from the locality that explain (i) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (ii) the necessity of obtaining any local review board or governing body approvals prior to doing any work on a property located in a local historic district. This bill is a recommendation of the Virginia Housing Commission.

SB 1123 (McPike): Manufactured Home Lot Rental Act; failure of landlord to correct violations; notification of tenants. Provides that if a landlord does not remedy a violation of an ordinance involving the health and safety of tenants in a manufactured home park within seven days of receiving notice from the locality of such violation, the locality must notify tenants of the manufactured home park who are affected by the violation. The notification may consist of posting the notice of violation in a conspicuous place in the manufactured home park or mailing copies of the notice to affected tenants.

SB 1228 (Barker): Virginia Fair Housing Law; rights and responsibilities with respect to the use of an assistance animal in a dwelling. Sets out the rights and responsibilities under the Virginia Fair Housing Law (§ 36-96.1 et seq.) with respect to maintaining an assistance animal in a dwelling. The bill establishes a process through which a person with a disability may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling, including any supporting documentation verifying the disability and disability-related need for an accommodation. Under the bill, a request for reasonable accommodation to maintain an assistance animal may be denied for any one of the following reasons: (i) the requester does not have a disability; (ii) the requester does not have a disability-related need for an assistance animal; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. The bill provides that whenever a request for a reasonable accommodation to maintain an assistance animal in a dwelling is denied for reasons other than that the requester does not have a disability or a disability-related need for an assistance animal, an interactive process shall be initiated to determine if there is an alternative accommodation that would effectively address the disability-related need. The bill also defines "assistance animal," "major life activities," "therapeutic relationship," and "physical or mental impairment." The bill provides that if any provision of its provisions is determined by the U.S. Department of Housing and Urban Development to be not substantially equivalent or otherwise inconsistent with the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., as amended, such provision shall not be enforceable. As introduced, this bill was a recommendation of the Virginia Housing Commission. This bill is identical to HB 2006.

SB 1231 (Stanley, Jr.): Property Owners' Association Act; designation of authorized representative by seller; association disclosure packet. Provides that unless expressly authorized by the Property Owners' Association Act (§ 55-508 et seq.) or the declaration or as otherwise provided by law, no association may require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs, (b) the geographical location of real estate signs, (c) the manner in which real estate signs are affixed to real property, and (d) the period of time after settlement when the real estate signs must be removed. In addition, no property owners' association may require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed by the Real Estate Board to serve as his authorized representative in the sale of a lot. The bill provides that if a request has been made to an association or its common interest community manager to furnish the disclosure packet and such packet is not provided within 14 days of the request, it shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The bill also authorizes the Common Interest Community Board to assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against the association or its common interest community manager. The bill also authorizes the Common Interest Community Board to receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or

disclosure packet within the time period required under the Condominium Act, the Virginia Real Estate Cooperative Act, or the Property Owners' Association Act. This bill is identical to HB 2045.

SB 1237 (Chafin): Housing authorities; authorization by governing body of town. Provides that the governing body of a town, in addition to the governing body of a county or city as in current law, may authorize a housing authority to contract for the construction of additional housing or acquire land for, or purchase material for the construction or installation of, any sewerage, streets, sidewalks, lights, power, water, or any other facilities for such additional housing. This bill is identical to HB 1585.

SB 1255 (DeSteph, Jr.): Condominium Act; resale by purchaser; designation of authorized representative. Provides that unless expressly authorized by the Condominium Act or the condominium instruments or as otherwise provided by law, no unit owners' association may require the use of any for sale sign that is a unit owners' association sign, or a real estate sign that does not comply with the requirements of the Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (i) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (ii) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (iii) the manner in which real estate signs are affixed to real property; and (iv) the period of time after settlement when the real estate signs on such real property shall be removed. The bill also prohibits a unit owners' association from requiring any unit owner to execute a formal power of attorney if the unit owner designates a person licensed by the Real Estate Board to serve as his authorized representative in the sale of a unit. In addition, the bill authorizes the Common Interest Community Board to assess a monetary penalty against a unit owners' association or common interest community manager for the failure to deliver the resale certificate within 14 days. This bill is identical to HB 2274.

ECONOMIC DEVELOPMENT

HB 1486 (Albo): Arts and cultural districts. Provides that arts and cultural districts may be created jointly by two or more localities. This bill is identical to SB 1225.

HB 1970 (Landes): Creation of economic revitalization zones in counties. Grants counties authority to create economic revitalization zones. The zones shall be for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for economic development. Each county establishing an economic revitalization zone may grant incentives and provide regulatory flexibility. This authority currently exists for cities.

HB 2347 (Byron): Commonwealth's Development Opportunity Fund; limitation on use of moneys from the Fund. Provides that unless an exception has been granted by the Secretary of Commerce and Trade, moneys in the Commonwealth's Development Opportunity Fund shall not be used for any economic development project involving a business that relocates or expands its operations in one or more Virginia localities while simultaneously closing its operations or substantially reducing the number of its employees in another Virginia locality. Under current law, this limitation on the use of the Fund is stated as a general policy rather than as a requirement. The bill also requires the Secretary of Commerce and Trade to provide written notice to the Chairmen of the Senate Finance and House Appropriations Committees at least 48 hours prior to the final approval of the grant or loan. Currently, the notice must be provided promptly, and a time frame is not specified.

HB 2471 (Jones): Virginia Economic Development Partnership Authority; membership; powers and duties. Restructures the membership of the board of directors (the Board) of the Virginia Economic Development Partnership Authority (the Authority), designates the Board as a supervisory board within the statutory definition of "supervisory," sets out the minimum qualifications for appointments to the Board, and sets out additional powers and duties required of the Board, including development of a strategic plan for economic development, a marketing plan, and an operational plan. The bill also establishes a Division of Incentives within the Authority to track, manage, and coordinate economic development incentives. Under the bill, the Division is required to obtain certification from the Attorney General prior to certifying that an approved project has met the investment and job

creation requirements and the review of the Attorney General prior to seeking the repayment of any public funds from an approved project due to a failure of the project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. The bill establishes a position of internal auditor and two advisory committees and requires (i) each commissioner of the revenue to provide certain tax information and (ii) the Virginia Employment Commission to provide certain employment information to the Authority as may be necessary to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. The bill contains an emergency clause. This bill is identical to SB 1574.

SB 976 (Hanger, Jr.): Virginia Economic Development Partnership Authority; site and building assessment program; minimum size of industrial sites. Lowers the minimum size of industrial sites that may be included in the Authority's site and building assessment program from 250 acres to 100 acres. The bill contains a technical amendment. This bill is identical to HB 1591.

SB 1574 (Ruff, Jr.): Virginia Economic Development Partnership Authority; membership; powers and duties. Restructures the membership of the board of directors (the Board) of the Virginia Economic Development Partnership Authority (the Authority), designates the Board as a supervisory board within the statutory definition of "supervisory," sets out the minimum qualifications for appointments to the Board, and sets out additional powers and duties required of the Board, including development of a strategic plan for economic development, a marketing plan, and an operational plan. The bill also establishes a Division of Incentives within the Authority to track, manage, and coordinate economic development incentives. Under the bill, the Division is required to obtain certification from the Attorney General prior to certifying that an approved project has met the investment and job creation requirements and the review of the Attorney General prior to seeking the repayment of any public funds from an approved project due to a failure of the project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. The bill establishes a position of internal auditor and two advisory committees and requires (i) each commissioner of the revenue to provide certain tax information and (ii) the Virginia Employment Commission to provide certain employment information to the Authority as may be necessary to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. The bill contains an emergency clause. This bill incorporates SB 1238 and is identical to HB 2471.

EMINENT DOMAIN

HB 2024 (Freitas): Condemnation powers and proceedings; notice to owner or tenant. Requires an authorized condemnor or the Commissioner of Highways to give notice to the owner or tenant of freehold property subject to condemnation between 30 and 45 days prior to the filing or recordation of a certificate in any "quick take" condemnation proceeding. Current law requires notice but does not provide a time frame within which such notice must be given. The bill also requires such condemnor to notify the owner or tenant within four business days of the filing or recording by providing a copy of the certificate by certified or registered mail.

SB 927 (Peterson): Eminent domain; timing for initiation of "quick-take" condemnation procedure and petition for determination of just compensation. Provides that an authorized condemnor in a "quick-take" condemnation proceeding shall institute such proceedings within 180 days of the recordation of a certificate terminating the interest of the owner of the property. Under current law, such proceedings must be instituted within 60 days after the completion of the construction of the improvements upon the property. The bill further provides that the owner of such property has 180 days after the authorized condemnor has entered upon and taken possession of the property or after the recordation of a certificate to petition the court for a determination of just compensation for the property taken or damaged by the authorized condemnor.

SB 1153 (Obenshain): Inverse condemnation proceeding; reimbursement of owner's costs. Directs the court to reimburse a plaintiff for the costs of an inverse condemnation proceeding for "damaging" property if a judgment is entered for the plaintiff. Under current law, the court is directed to award costs only for the "taking" of property. The amendment in this bill corresponds with the language of amendments to Article I, Section 11 of the Constitution of Virginia, which became effective on January 1, 2013, and applies to declaratory judgment proceedings filed on or after July 1, 2017.

SB 1421 (Mason): Interest on the amount of award; condemnation proceeding. Provides that the interest on an award in a condemnation proceeding that is greater than the amount that the condemnor deposited with the court shall accrue at the judgment rate of interest.

TRANSPORTATION

HB 2016 (Villanueva): Electric personal delivery devices. Allows for the operation of electric personal delivery devices on the sidewalks and shared-use paths and across roadways on crosswalks in the Commonwealth unless otherwise prohibited by a locality. The bill directs that such devices shall not be considered vehicles and are exempt from the motor carrier provisions of Title 46.2 (Motor Vehicles). This bill is identical to SB 1207.

HB 2023 (Villanueva): Highway maintenance payments; bicycle lanes. Provides that cities and towns that receive highway maintenance payments from the Commonwealth based on moving-lane-miles of highway will not have such payments reduced if moving-lane-miles of highway are converted to bicycle-only lanes, provided that the number of moving-lane-miles is not more than 50 moving-lane-miles or three percent of the municipality's total number of moving-lane-miles, whichever is less, and that prior to such conversion the city or town certifies that the conversion design has been assessed by a professional engineer and designed in accordance with certain national standards. Municipalities will not receive additional funds and cannot reduce their funding of road and street maintenance after a conversion. The bill also repeals the provision that allowed the City of Richmond to convert 20 moving-lane-miles to bicycle-only lanes.

HB 2136 (LeMunyon): Washington Metrorail Safety Commission Interstate Compact. Authorizes Virginia to become a signatory to the Washington Metrorail Safety Commission Interstate Compact. The compact establishes a state safety oversight authority for the Washington Metropolitan Area Transit Authority (WMATA) Rail System, pursuant to the mandate of federal law, to review, approve, oversee, and enforce the safety of the WMATA Rail System. The bill requires the Secretary of Transportation to negotiate, on the Commonwealth's behalf, the terms for revision of the WMATA Compact with the other signatories to the WMATA Compact. The bill contains an emergency clause.

HB 2241 (Jones): Department of Transportation; Office of Intermodal Planning and Investment of the Secretary of Transportation; responsibilities. Shifts responsibilities for transportation planning activities from the Virginia Department of Transportation (VDOT) to the Office of Intermodal Planning and Investment of the Secretary of Transportation. The bill specifies VDOT's core functions and limits the agency's duties to those core functions. The bill requires transparency in the development of the Six-Year Improvement Program and the State of Good Repair Program by the Commonwealth Transportation Board (CTB) and requires the CTB and VDOT to make public certain information related to the selection of projects. This bill is identical to SB 1331.

SB 806 (Stanley, Jr.): Interstate 73 Corridor Development Fund and Program. Establishes the Interstate 73 Corridor Development Fund and Program and reallocates to the I-73 Fund the \$40 million from state recordation taxes that is currently allocated annually to the U.S. Route 58 Corridor Development Fund and Program. All provisions of the bill are contingent upon construction of and payments for Route 58 being completed. The bill contains a reenactment clause.

SB 1207 (DeSteph, Jr.): Electric personal delivery devices. Allows for the operation of electric personal delivery devices on the sidewalks and shared-use paths and across roadways on crosswalks in the Commonwealth unless otherwise prohibited by a locality. The bill directs that such devices shall not be considered vehicles and are exempt from the motor carrier provisions of Title 46.2 (Motor Vehicles). This bill is identical to HB 2016.

SB 1591 (Carrico, Jr.): Economic Development Access Program; bonded projects. Imposes a 48-month moratorium on the repayment of funds allocated to a locality for a bonded project pursuant to the Economic

Development Access Program, provided that the conditions of the Commonwealth Transportation Board's economic development access policy are met. The bill has an emergency clause and is identical to HB 1973.

HB 1440 (Bell): Farm use vehicles; penalties. Imposes a \$250 fine for willfully and intentionally violating the limitations for the use of farm use vehicles on a highway for a second or subsequent violation. Current law allows for a fine of up to \$250 regardless of the number of previous violations.

HB 1929 (Bagby): Public-Private Transportation Act; comprehensive agreement. Requires all comprehensive agreements originally entered into on or after July 1, 2017, resulting in privately funded roads open for public transportation to include a provision requiring funding for adequate staffing, defined in the bill, for general law-enforcement services by the Virginia State Police.

HB 2137 (LeMunyon): Northern Virginia Transportation Authority; regional transportation plan. Requires the Northern Virginia Transportation Authority (the Authority) to annually publish on its website any land use or transportation elements of a locality's comprehensive plan that each locality embraced by the Authority is currently required to report when such locality's plan is inconsistent with the Authority's regional transportation plan. Additionally, the bill requires the Authority to consider for revision and revise as necessary its regional transportation plan at least once every five years. The Authority is required to specify any obstacles to achieving a reduction in congestion in Planning District 8 and any need for cooperation by other regional entities. The bill has a delayed effective date of July 1, 2018.

HB 2138 (LeMunyon): State and local transportation planning. Provides that prior to the adoption of or amendment to any comprehensive plan that substantially affects transportation on state-controlled highways in Planning District 8 (Northern Virginia), the Department of Transportation shall specify by name and location any transportation facility having a functional classification of minor arterial or higher for which an increase in traffic volume is expected to exceed the capacity of such facility as a result of the proposed plan or amendment.

HB 2139 (LeMunyon): Commissioner of Highways; annual report requirements. Requires that the Commissioner of Highways, in his annual report, report specifically about transportation projects approved or modified during the prior fiscal year and include a listing of the total number of lane miles of all primary and secondary roads that have been resurfaced and all primary and secondary roads that are rated "poor" or "very poor."

HB 2244 (Jones): Public-Private Transportation Act of 1995. Renames the Transportation Public-Private Partnership Advisory Committee the Transportation Public-Private Partnership Steering Committee (the Steering Committee) and provides that the Deputy Secretary of Transportation shall serve as the chairman of the Steering Committee. The bill provides that, under the Public-Private Transportation Act of 1995, a responsible public entity may grant approval for the development and/or operation of a transportation facility by a private entity if that private entity can develop and/or operate the transportation facility for less cost than the Department of Transportation (VDOT) or the Department of Rail and Public Transportation (DRPT). The bill requires the chief executive officer of the responsible public entity to certify in writing to the Governor and the General Assembly that there has been no material change to the finding that a public-private partnership is in the best interest of the public since the finding was issued and that the public contribution requested by the private entity does not exceed the maximum public contribution. The bill clarifies that the finding of public interest by the Steering Committee shall be made after receipt of responses to the request for qualifications and prior to the issuance of the first draft request for proposals. The bill requires the responsible public entity, when such entity is VDOT or DRPT, to ensure competition through the procurement process and develop a public sector analysis of the cost for the responsible entity to develop and/or operate the transportation facility. The bill requires VDOT or DRPT and the Steering Committee to review the public sector analysis prior to the initiation of any procurement. The bill adds to the information required to be included in the finding of public interest a description of the benefits expected to be realized by the responsible public entity and a public sector analysis demonstrating that the private sector can deliver the project for less cost than the responsible public entity. This bill is identical to SB 1322.

HB 2463 (Hodges): Commissioner of Highways; commercial establishment entrances. Requires the Commissioner of Highways to document and maintain a list of anyone who has requested an onsite meeting with the resident engineer or his staff for the purpose of connecting commercial establishment entrances to the paved part of the highway. The bill requires that such list include recommendations regarding compliance with the Department of

Transportation's design standards and access management regulations and the Commonwealth Transportation Board's regulations regarding land use permits, as well as associated cost estimates. The bill requires such list be provided to a locality upon request.

HB 2474 (Pillion): Virginia Coalfields Expressway Authority; report. Creates the Virginia Coalfields Expressway Authority to improve the transportation into, from, within, and through Southwest Virginia; assist in regional economic development; and generally enhance highway safety in the affected localities through development of a proposed Coalfields Expressway. The bill regulates the membership and duties of the Authority.

ENERGY & ENVIRONMENTAL

HB 1565 (Webert): Local tax and regulatory incentives; green development zones. Authorizes localities to create green development zones that provide certain tax incentives and regulatory flexibility for up to 10 years to a business operating in an energy-efficient building or to a business that produces products used to reduce negative impact on the environment.

HB 1671 (Morefield): Qualified projects of natural gas utilities. Exempts any natural gas utility serving fewer than 2,000 residential customers and fewer than 350 commercial and industrial customers in the year in which the utility makes an investment for qualifying projects from the provision that limits the amount of investment that a natural gas utility may make in qualifying projects to one percent of its net plant investment that was used in establishing base rates in its most recent rate case. The existing exemption to the one percent cap was enacted in 2013 and applies to any natural gas utility serving fewer than 1,000 residential customers and fewer than 250 commercial and industrial customers in such year. Legislation enacted in 2012 established a mechanism for natural gas utilities to recover the eligible infrastructure development costs of a qualifying project through future rates. A qualifying project is an economic development project for which, among other things, the utility has received a binding commitment from the developer or occupant of the proposed project regarding capacity or a financial guaranty from the developer or state or local government in the amount of at least 50 percent of the estimated investment to be made in the proposed project. This bill is identical to SB 1289.

HB 1760 (Kilgore): Electric utilities; costs of pumped hydroelectricity generation and storage facilities. Authorizes an investor-owned electric utility to petition the State Corporation Commission for approval of a rate adjustment clause for recovery of the costs of one or more pumped hydroelectricity generation and storage facilities that utilize associated on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth. The measure provides that the requirement that a utility demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process applies only to a generation facility that is described in clauses (i) and (ii) of subdivision A 6 of § 56-585.1.

HB 2303 (Minchew): Small agricultural generators. Establishes the parameters of a program under which small agricultural generators may sell the electricity generated from a small agricultural generating facility to its utility. Effective July 1, 2019, enrollment by eligible agricultural customer-generators in an existing net energy metering program conducted by an electric cooperative will cease, though a cooperative's customers who were participating as eligible agricultural customer-generators before that date are allowed to remain in the net metering program for not more than 25 years. A small agricultural generator is defined in this measure as a customer who operates an electrical generating facility as part of an agricultural business, which generating facility, among other conditions, has a capacity of not more than 1.5 megawatts, uses renewable energy as its total source of fuel, has a capacity that does not exceed 150 percent of the customer's expected annual energy consumption based on the previous 12 months of billing history, uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility, and is a PURPA qualifying small power production facility. The program for small agricultural generators requires the generator to enter into a power purchase agreement with its supplier to sell all of the electricity generated at a rate not less than the supplier's State Corporation Commission-approved avoided cost tariff for energy and capacity. The program also provides for utilities to recover distribution service costs and costs incurred to purchase electricity, capacity, and renewable energy certificates from the small agricultural generator through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause if the utility has a Commission-approved RPS plan and rate adjustment clause or, if the utility does not have a Commission-approved RPS rate adjustment clause, then the costs shall be recoverable through the

supplier's fuel adjustment clause or through the utility's cost of purchased power. Finally, the measure directs the Commission to conduct a single docketed proceeding to implement the provisions of this measure. This bill is identical to SB 1394.

HB 2390 (Kilgore): Renewable energy power purchase agreements; pilot programs. Expands the pilot program for renewable energy power purchase agreements authorized under legislation enacted in 2013 by directing that a pilot program be conducted by Appalachian Power. Currently, a pilot program is authorized only within Dominion Power's service territory. The measure provides that within the certificated service territory of Appalachian Power, nonprofit, private institutions of higher education that are not being served under a specific renewable generation tariff provision are deemed to be customer-generators eligible to participate in the pilot program, without the requirement that they participate in the utility's net energy metering program. The aggregated capacity of all generation facilities that are subject to third party power purchase agreements in Appalachian Power's pilot program is capped at seven megawatts. The measure does not apply to Old Dominion Power. Appalachian Power's pilot program expires July 1, 2022.

SB 1393 (Wagner): Electric utilities; community solar pilot programs. Requires Dominion Virginia Power and Appalachian Power to conduct a community solar pilot program for retail customers. A pilot program will authorize the participating utility to sell electric power to subscribing customers under a voluntary companion rate schedule, and the utility will generate or purchase the electric power from eligible generation facilities selected for inclusion in the pilot program. An eligible generation facility is an electrical generation facility that (i) exclusively uses energy derived from sunlight; (ii) is placed in service on or after July 1, 2017; (iii) is not constructed by an investor-owned utility but is acquired by an investor-owned utility through an asset purchase agreement or is subject to a power purchase agreement under which the utility purchases the facility's output from a third party; and (iv) has a generating capacity not exceeding two megawatts, subject to an exception. Pilot programs will have a three-year duration unless renewed or made permanent by appropriate legislation. The measure requires an investor-owned utility to select eligible generating facilities for dedication to its pilot program through a request for proposal (RFP) process.

SB 1395 (Wagner): Small renewable energy projects; permits by rule. Provides that certain small renewable energy projects proposed, developed, constructed, or purchased by (i) a public utility if the project's costs are not recovered from Virginia jurisdictional customers under base rates, a fuel factor charge, or a rate adjustment clause or (ii) a utility aggregation cooperative, are eligible for a permit by rule and are exempt from environmental review and permitting by the State Corporation Commission. The measure specifies that a small renewable energy project shall be eligible for permit by rule if it is proposed, developed, constructed, or purchased by a person that is not a regulated utility. The measure exempts a small renewable energy project for which the Department of Environmental Quality has issued a permit by rule from the requirement that it obtain a certificate of public convenience and necessity for the construction or operation of the project. Finally, the measure increases the maximum rated capacity of solar and wind facilities that qualify as small renewable energy projects from 100 megawatts to 150 megawatts.

SB 1473 (Saslaw): Electric utilities; undergrounding distribution lines. Declares that the replacement of any subset of an investor-owned electric utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. The measure also provides that there shall be a rebuttable presumption that (i) the conversion of such facilities will provide local and system-wide benefits, (ii) the new underground facilities are cost beneficial, and (iii) the costs associated with the new underground facilities are reasonably and prudently incurred. An enactment clause provides that the measure shall apply to any applications pending with the Commission regarding new underground facilities on or after January 1, 2017. Another enactment clause directs an investor-owned incumbent electric utility to provide written notice to any cable operator of a cable television system that has attached its facilities to its poles that will be replaced in a project to underground existing overhead distribution tap lines not less than 90 days prior to relocating the utility's overhead distribution lines. The clause also establishes a procedure for negotiating a common shared underground easement.

HB 1454 (Austin): James River State Scenic River designation. Extends the scenic river designation of a portion of the James River located in Botetourt and Rockbridge Counties from 14 miles to 59 miles. This bill is identical to SB 1196.

HB 1472 (Lingamfelter): State and Local Government Conflict of Interests Act; prohibited contracts; exceptions for certain contracts entered into by an officer or employee of a soil and water conservation district. Provides an exception to the prohibition against contracts between employing agencies and their officers or employees for contracts by an officer or employee of a soil and water conservation district or an immediate family member of such officer or employee to participate in a cost-share program for the installation of best management practices to improve water quality. The exception does not apply to subcontracts or other agreements entered into to provide services for implementation of a cost-share contract established under such program. The bill provides that the exception applies to all contracts entered into on and after July 1, 2017, and to any contract entered into by an officer or employee or an immediate family member of such officer or employee with a soil and water conservation district to participate in a cost-share program for the installation of best management practices to improve water quality prior to July 1, 2017. This bill is identical to SB 965.

HB 1562 (Cole): Dam Safety, Flood Prevention and Protection Assistance Fund. Authorizes the Director of the Department of Conservation and Recreation to disburse moneys from the Dam Safety, Flood Prevention and Protection Assistance Fund in the form of grants or loans to a local government that owns a dam, to a local government for a dam located within the locality, or to a private entity that owns a dam in order to protect public safety and welfare. The grants can be used for the design, repair, and safety modifications of dams identified in safety reports.

HB 1597 (Webert): Local stormwater management utility; waiver of charges; stormwater retained on site. Requires any locality establishing a stormwater management utility to provide a full or partial waiver of charges for a person whose approved stormwater management plan indicates that the stormwater produced by his property is retained and treated on site.

HB 1740 (Minchew): Sanitary districts; creation by board of supervisors. Transfers authority to create or enlarge sanitary districts from the circuit court with jurisdiction over the locality in which the district is located to the governing body of the county in which the district is located. The bill requires the governing body, at a hearing for the creation or enlargement of a sanitary district, to make a finding of fact of whether the action is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in the case of enlargement, the area proposed to be included in the existing district. The bill also requires a minimum standard regarding timeliness for hearings.

HB 1774 (Hodges): Stormwater and erosion control; work group; stormwater laws. Directs the Commonwealth Center for Recurrent Flooding Resiliency (the Center) to convene a work group to consider alternative methods of stormwater management in rural Tidewater localities. The bill provides that the group is to be facilitated by the Virginia Coastal Policy Center at William and Mary Law School and is to include representatives of institutions of higher education, state agencies, local governments, private industry, and other groups. The bill provides that the work group is to review and consider the creation of rural development growth areas, the development of a volume credit program, the payment of fees to support regional best management practices, and the allowance of the use of stormwater in highway ditches to generate volume credits. The bill requires the Center to report the results of the work group's examination to the Governor and the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources by January 1, 2018, which is the date the work group provisions of the bill are set to expire. The bill also delays from July 1, 2017, to July 1, 2018, the effective date of new stormwater laws enacted during the 2016 Session of the General Assembly.

HB 1796 (Stolle): Oyster ground lease; certain dredging projects. Provides that certain oyster ground leaseholders in the Lynnhaven River are subject to the conduct of approved municipal dredging projects to restore existing navigation channels. The bill limits such projects to oyster grounds that are condemned, restricted, or otherwise nonproductive, and it requires the locality to compensate the lessee for the use of the ground. The bill directs that if the parties cannot agree on a compensation amount, a court of competent jurisdiction shall determine the value of the ground. The bill has an expiration date of July 1, 2019. This bill is identical to SB 1143.

HB 2009 (Hodges): Stormwater and erosion management; administration of program by certified third party. Authorizes the hiring of certified third-party professionals to administer any or all aspects of a program for the management of stormwater and erosion, including plan review and inspection but not including enforcement, on behalf of (i) an erosion and stormwater management program authority, which is the State Water Control Board or a locality approved by the State Water Control Board, or (ii) a stormwater management program authority, which can be a locality, a state entity, or another type of entity.

HB 2076 (Wilt): State Water Control Board; stormwater management programs; regulations; professional license. Directs the State Water Control Board to adopt regulations requiring that all final plan elements, specifications, or calculations whose preparation requires a license in engineering, architecture, soil science, or a related profession be signed and sealed by a licensed professional. The bill requires the regulations to be effective no later than July 1, 2018, and exempts them from certain provisions of the Administrative Process Act. This bill is identical to SB 1127.

HB 2311 (Cox): Nutrient Offset Fund; sale of credits. Requires the Director of the Department of Environmental Quality (DEQ) to use certain funds to purchase nutrient credits for point or nonpoint sources that achieve reductions beyond the requirements of state or federal law or the Chesapeake Bay Watershed Implementation Plan. The bill directs DEQ to establish procedures for distributing moneys from the Nutrient Offset Fund with certain requirements. The bill requires the Director of DEQ to consider the recommendations of the Secretary of Commerce and Trade and the requirements of the State Water Control Law (§ 62.1-44.2 et seq.) in the sale of nutrient credits to new or expanding private facilities. The bill also removes the priority given to nutrient offsets produced from facilities that generate electricity from animal waste. The bill renames nutrient offsets as nutrient credits.

HB 2383 (Lingamfelter): Department of Environmental Quality (DEQ); combined sewer overflow (CSO) outfalls; Chesapeake Bay Watershed. Directs DEQ to identify the owner of any combined sewer overflow outfall that discharges into the Chesapeake Bay Watershed and to determine what actions by the owner, if it is not under a state order, are necessary to bring such an outfall into compliance with Virginia law, the federal Clean Water Act, and the Presumption Approach described in the CSO Control Policy of the U.S. Environmental Protection Agency (EPA). The bill requires any owner of such an outfall to initiate construction activities by July 1, 2023, to bring it into compliance by July 1, 2025. Until compliance is achieved, the bill requires the outfall owner to annually report its progress to DEQ. The bill requires DEQ to provide all such reports to certain legislative committees, the Virginia delegation to the Chesapeake Bay Commission, the Secretary of Natural Resources, and the Governor. The bill does not apply to any outfall for which a higher level of control is necessary to comply with a Total Maximum Daily Load (TMDL). This bill is identical to SB 898.

HB 2477 (Orrock, Sr.): Department of Health to take steps to begin eliminating site evaluation and design services for onsite sewage systems and private wells. Directs the Department of Health to take certain steps to begin eliminating site evaluation and design services for onsite sewage systems and private wells provided by the Department.

SB 898 (Stuart): Department of Environmental Quality (DEQ); combined sewer overflow (CSO) outfalls; Chesapeake Bay Watershed. Directs DEQ to identify the owner of any combined sewer overflow outfall that discharges into the Chesapeake Bay Watershed and to determine what actions by the owner, if it is not under a state order, are necessary to bring such an outfall into compliance with Virginia law, the federal Clean Water Act, and the Presumption Approach described in the CSO Control Policy of the U.S. Environmental Protection Agency (EPA). The bill requires any owner of such an outfall to initiate construction activities by July 1, 2023, to bring it into compliance by July 1, 2025. Until compliance is achieved, the bill requires the outfall owner to annually report its progress to DEQ. The bill requires DEQ to provide all such reports to certain legislative committees, the Virginia delegation to the Chesapeake Bay Commission, the Secretary of Natural Resources, and the Governor. The bill does not apply to any outfall for which a higher level of control is necessary to comply with a Total Maximum Daily Load (TMDL). This bill incorporates SB 818 and is identical to HB 2383.

SB 964 (Hanger, Jr.): Running bamboo; cutting by localities; ordinance prohibiting spread; designation of certain plants as noxious weeds; civil penalties. Authorizes any locality to adopt an ordinance requiring proper upkeep of running bamboo and prohibiting the spread of running bamboo from a landowner's property, with

violations punishable by a civil penalty not to exceed \$50 for a first violation and not to exceed \$200 for a subsequent violation within 12 months. The bill includes running bamboo in the "other foreign growth" category that current law allows localities to regulate and in some cases to cut. The bill also directs the Department of Conservation and Recreation (DCR) and the Virginia Department of Agriculture and Consumer Services (VDACS) to develop a model running bamboo ordinance and, with the Department of Forestry, to enter into a Memorandum of Understanding that clarifies the roles of the VDACS noxious weeds regulations and the work of the Virginia Invasive Species Working Group. Finally, the bill directs VDACS and DCR to examine the eligibility of certain plants for designation as noxious weeds. This bill is identical to HB 2154.

SB 1127 (Obenshain): State Water Control Board; stormwater management programs; regulations; professional license. Directs the State Water Control Board to adopt regulations requiring that all final plan elements, specifications, or calculations whose preparation requires a license in engineering, architecture, soil science, or a related profession be signed and sealed by a licensed professional. The bill requires the regulations to be effective no later than July 1, 2018, and exempts them from certain provisions of the Administrative Process Act. This bill is identical to HB 2076.

SB 1189 (Edwards): Water and sewer services; liens; owners, lessees, or tenants. Separates Code provisions regarding water and sewer services provided to lessees or tenants of real property from Code provisions regarding water and sewer services provided to owners of real property. The bill removes a locality's authority to waive a required written authorization by an owner for water or sewer services provided by a locality to a lessee or tenant. A copy of the lease between the lessee or tenant and the owner is acceptable authorization.

FREEDOM OF INFORMATION ACT

HB 1539 (LeMunyon): Virginia Freedom of Information Act (FOIA); public access to records of public bodies. Clarifies the definition of public record. The bill also (i) defines "personal contact information" that is excluded from FOIA's mandatory disclosure provisions in certain cases; (ii) clarifies that a requester has the right to inspect records or receive copies at his option; (iii) clarifies language in certain record exclusions under FOIA that certain records may be disclosed at the discretion of the custodian; (iv) consolidates the personnel record exclusion with the limitation on the application of that exclusion, and specifically clarifies that the name, in addition to position, job classification, and salary, of a public employee is public information as per opinions of the Attorney General and the FOIA Council; (v) eliminates, effective July 1, 2018, the exclusion for the Alcoholic Beverage Control Authority relating to operating and marketing strategies; (vi) eliminates the exclusion for correspondence of local officials as unnecessary; (vii) consolidates various public safety exclusions relating to building plans and drawings and critical infrastructure into a single exclusion; (viii) eliminates the exclusion for administrative investigations of the Department of Human Resource Management, as the exclusion is already covered under the personnel records exclusion; (ix) expands the exclusion for personal information provided to the Virginia College Savings Plan to cover qualified beneficiaries, designated survivors, and authorized individuals, which terms are defined in the bill; (x) consolidates the various record exclusions for the Department of Health Professions and the Department of Health into single exclusions for each Department; (xi) clarifies certain Department of Social Services exclusions; (xii) provides an exclusion for local finance boards that provide postemployment benefits other than pensions; and (xiii) eliminates the record exclusion for Virginia Wildlife Magazine. The bill also limits the application of the working papers exemption by stating that information publicly available or not otherwise subject to an exclusion under FOIA or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. The bill contains numerous technical amendments. This bill is a recommendation of the Freedom of Information Advisory Council pursuant to the HJR 96 FOIA study (2014-2016).

HB 1540 (LeMunyon): Virginia Freedom of Information Act (FOIA); public access to meetings of public bodies. Revises FOIA's various open meeting exemptions relating to legal matters, litigation, certain museums, and the Virginia Commonwealth University Health System Authority. The bill also (i) clarifies where meeting notices and minutes are to be posted, (ii) requires copies of proposed agendas to be made available, (iii) eliminates reporting to the Joint Commission on Science and Technology when a state public body convenes an electronic communication meeting, and (iv) makes technical corrections to several open meeting exemptions to provide context for those meeting exemptions that currently only cross-reference corollary records exemptions. The bill also

clarifies closed meeting procedures. The bill contains numerous technical corrections. This bill is a recommendation of the Freedom of Information Advisory Council pursuant to the HJR 96 FOIA study (2014-2016).

HB 1587 (Campbell): Uniform Statewide Building Code; security of certain records. Provides that information contained in engineering and construction drawings and plans for any single-family residential dwelling submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) shall be confidential and shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except to the applicant or the owner of the property upon the applicant's or owner's request.

HB 2143 (LeMunyon): Virginia Freedom of Information Act (FOIA); training provided by the Virginia Freedom of Information Advisory Council. Requires the Freedom of Information Advisory Council to maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve. The bill requires the name and contact information of FOIA officers trained by legal counsel of a public body to be submitted to the Council by July 1 of each year on a form developed by the Council for that purpose and to be updated in a timely manner in the event of any changes to such information. The bill also provides that training through an online course offered by the Council shall satisfy the annual training requirement for FOIA officers.

HB 2144 (LeMunyon): Virginia Freedom of Information Advisory Council; membership; effect of missing meetings. Increases the Virginia Freedom of Information Advisory Council from 12 members to 14 members by adding one additional member from the House of Delegates and one additional member from the Senate. The bill also provides that if any nonlegislative citizen member of the Council fails to attend a majority of meetings of the Council in a calendar year, the Council shall notify the member's appointing authority, who may, upon receipt of such notification, remove the member and appoint a successor as soon as practicable.

HB 2146 (LeMunyon): Virginia Freedom of Information Act (FOIA); Freedom of Information Advisory Council; online public comment form. Requires the Freedom of Information Advisory Council to develop an online public comment form to be posted on its official public government website to enable any requester to comment on the quality of assistance provided to the requester by a public body. The bill also requires all state public bodies subject to the provisions of FOIA and any county or city, and any town with a population of more than 250, to post a link on its official public government website to the online public comment form.

SB 1040 (Hanger, Jr.): Virginia Freedom of Information Act (FOIA); record exclusion for personal contact information; limitation. Provides that personal contact information provided to a public body for the purpose of receiving electronic mail from the public body is excluded from the mandatory disclosure provisions of FOIA, provided that the electronic mail recipient has requested that the public body not disclose such information. The bill defines "personal contact information" as the home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device. Current law excludes "personal information," which is defined as including a broader range of information than the limited definition of personal contact information in the bill.

MISCELLANEOUS

HB 1793 (Fariss): Burn ban; exception for freeze protection of orchard or vineyard. Adds an exception to the ban on fires from February 15 through April 30 of each year for fire set for the prevention of damage to orchards or vineyards by frost or freezing temperatures.

HB 1883 (Kilgore): Occupational health and safety laws; amount of civil penalties. Increases the maximum amount of civil penalties that may be assessed by the Commissioner of Labor and Industry for certain violations of occupational safety and health laws from \$7,000 to \$12,471 and for willful or repeated violations of such laws from \$70,000 to \$124,709. The measure also requires the Commissioner annually to increase the maximum civil penalty amounts, starting in 2018, by an amount that reflects the percentage increase, if any, in the consumer price index from the previous calendar year. This bill is identical to SB 1542.

HB 1941 (Kilgore): Immunity of persons; defamation; statements regarding matters of public concern communicated to a third party; statements made at a public hearing. Adds defamation to the causes of action from which a citizen shall be immune when making statements (i) regarding matters of public concern to a third party or (ii) at a public hearing before the governing body of any locality or other political subdivision, or the boards, commissions, agencies, and authorities thereof, and other governing bodies of any local governmental entity. The bill further provides that the immunity does not apply to any statements made with actual or constructive knowledge that they are false, or with reckless disregard for whether they are false. This bill is identical to Senate Bill 1413.

HB 1979 (Peace): Board for Contractors; exemption from licensure; responsibility for contracting with unlicensed or unregistered person. Exempts from licensure work undertaken by a person providing construction, remodeling, repair, improvement, removal, or demolition valued at \$2,500 or less per project on behalf of a properly licensed contractor, provided that such contractor holds a valid license in the residential or commercial building contractor classification. The bill provides, however, that any construction services that require an individual license or certification shall be rendered only by an individual licensed or certified by the Board for Contractors. The bill also provides that any contractor that directly employs or otherwise contracts with a person who is not credentialed by the Board for Contractors for work requiring a credential shall be solely responsible for any monetary penalty or other sanction resulting from the act of employing or contracting with a person who lacks the proper credential based upon such person's failure to obtain or maintain the required credential. This bill is identical to SB 1193.

HB 2418 (Robinson): Alcoholic beverage control; banquet licenses for wineries and breweries. Increases from four to eight the number of banquet licenses a brewery or winery may obtain for events in any one-year period, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about beer or wine products, respectively. The bill also specifically provides that such wine or beer manufacturer is limited to eight banquet licenses for such events per year without regard to the number of wineries or breweries, respectively, owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. The bill contains a technical amendment.

SB 1265 (Chafin): Department of General Services; maintenance of property records; notification when deed, lease, or other agreement to terminate. Requires the Department of General Services to maintain records relating to all property interests held by the Commonwealth and under the control of or occupied by any of its departments, agencies, or institutions, with the exception of records relating to (i) real estate or rights-of-way acquired by the Department of Transportation for the construction of highways; (ii) ungranted shores of the sea, marsh, and meadowlands as defined in § 28.2-1500; or (iii) real estate or rights-of-way acquired by the Department of Rail and Public Transportation for the construction of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes. The bill also provides for the Department to submit a quarterly report, in electronic form, to the General Assembly that includes renewal and termination dates for inventoried property pursuant to the lease, license, permit, or other agreement administered by the Department. The information will include property that serves as a branch office of a state agency and all renewals and terminations scheduled to occur within 90 days of the report date.

SB 1374 (DeSteph, Jr.): Board for Contractors; membership. Adds a professional engineer to the membership of the Board for Contractors.