

Virginia Planning & Zoning 2016 Legislative Update

Andrew A. Painter, Esq.
Walsh, Colucci, Lubeley & Walsh, P.C.
Phone: (703) 737-3633
Fax: (703) 737-3632
Email: apainter@thelandlawyers.com

LAND USE

HB 114 (Knight): Warning notice at agritourism location. Provides the operators of agritourism locations with the option of using the terms "WARNING" or "ATTENTION" on signage or contracts that indicate the operator's immunity from liability in the case of injury or death while at the facility. If such notice is not provided, the operator cannot invoke the immunity privilege.

HB 268 (Marshall): Land Bank Entities Act. Authorizes the establishment of a land bank entity by any locality or two or more localities combined to assist in addressing vacant, abandoned, and tax-delinquent real properties. Under the bill, the locality has the option of (i) creating an authority or a nonprofit, nonstock corporation or (ii) designating an existing nonprofit entity that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and eligible to receive donations from a locality pursuant to § 15.2-953 to carry out the functions of such land entity. The bill provides that land bank entities may acquire real property within participating localities or receive transfers and conveyances from the participating localities. Land bank entities are authorized to receive funding through grants and loans from participating localities, the Commonwealth, the federal government, and other public and private sources. In addition, the bill authorizes a locality to deem paid in full all accumulated taxes, penalties, interest, and other costs on any tax-delinquent property in exchange for conveyance of the property by the owner to a land bank entity. The bill also authorizes a participating locality to remit to the land bank entity up to 50 percent of the real property taxes collected on real property conveyed by a land bank entity for up to 10 years after the conveyance. This bill is a recommendation of the Virginia Housing Commission.

HB 280 (Marshall): Site plans; submission for approval by local planning commission; Freedom of Information Act. Provides that any proposed plat, site plan, or plan of development that is officially submitted to the local planning commission for approval shall be considered a public record subject to disclosure under the Virginia Freedom of Information Act.

HB 367 (Davis): Nonconforming uses. Provides that if a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously for at least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the locality or any agency affiliated with the locality for fees associated with such filing.

HB 734 (Hope): Noxious weeds. Establishes an advisory committee to evaluate the risks of a plant or part thereof that is being considered for designation as a noxious weed. The bill requires the advisory committee to assess the plant's (i) impact on water bodies, other plants, livestock, land, public health, the environment, and the economy and (ii) current and potential in-state commercial viability. The bill exempts from the definition of noxious weed any plant whose in-state production is commercially viable.

HB 735 (Miller): Landlord and tenant laws. Provides under the landlord and tenant law and the Virginia Residential Landlord and Tenant Act (VRLTA) that unless a tenant is at fault in cases of mold needing remediation, the landlord is obliged to pay all costs associated with the tenant's temporary relocation as well as the costs of mold remediation. Among other things, the bill (i) provides that, except for applicable lawful householder's exemptions, nothing affects the right of a landlord with respect to an inchoate or perfected lien of a landlord on the personal property of a tenant of any leased or rented commercial or residential premises or the right of such landlord to distress, levy, and seize such personal property as otherwise provided by law; (ii) clarifies that residential provisions

under the landlord and tenant law do not apply to dwelling units under the VRLTA; (iii) provides that a landlord's collection agency and a third party providing background screening or credit reporting services to the landlord or his managing agent may have access to tenant records; (iv) allows the landlord to charge a tenant for his records, if the rental agreement so provides; (v) clarifies that a landlord is not obligated to make repairs to address damages identified in the move-in inspection report unless otherwise required to do so under the VRLTA; (vi) requires a tenant to maintain carbon monoxide detectors to the standards established in the Uniform Statewide Building Code; and (vii) provides that if, upon inspection of dwelling unit, the landlord determines that repairs are necessary, the landlord may make such repairs and send the tenant an invoice for payment. If, upon inspection of the dwelling unit, the landlord discovers a violation of the rental agreement, the VRLTA, or other applicable law, the landlord may send a written notice of termination. If a tenant declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and reasonable attorney fees against such tenant. The bill contains technical corrections.

HB 739 (Stolle): Virginia Flooding Adaptation Office. Directs the Secretary of Public Safety and Homeland Security to establish the Virginia Flooding Adaptation Office and designate a Chief Resiliency Officer to oversee the operations of such office. The Chief Resiliency Officer, who shall hold no other position, shall serve as the primary coordinator of resilience and adaptation initiatives in Virginia and as the primary point of contact regarding issues related to resilience, sea-level rise, and flooding.

HB 770 (Gilbert): Conditional zoning. Provides that no locality shall (i) request or accept any unreasonable proffer in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application, including an application for amendment to an existing proffer, for a new residential development or new residential use where such denial is based on an applicant's failure or refusal to submit, or remain subject to, an unreasonable proffer. A proffer shall be deemed unreasonable unless it addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for. An off-site proffer shall be deemed unreasonable pursuant to the above unless it addresses an impact to an off-site public facility, such that, (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment, and (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. In any action in which a locality has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit, or remain subject to, an unreasonable proffer that it has proven was suggested, requested, or required, formally or informally, by the locality, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial. The bill also provides that certain conditional rezoning proffers related to building materials, finishes, methods of construction, or design features on a new residential development are prohibited.

HB 777 (McQuinn): Redevelopment or conservation areas or rehabilitation districts; tax exemption. Permits localities to allow a second application for a partial tax exemption period of up to 15 years beyond the initial exemption period.

HB 879 (Hugo): Alcoholic beverage control; farm winery and limited brewery licenses; land zoned agricultural. Clarifies that, for farm wineries and limited breweries, "land zoned agricultural" means land zoned as (i) an agricultural district or classification or (ii) land otherwise permitted by a locality for farm winery or limited brewery use. The bill provides that "land zoned agricultural" does not include land zoned "residential conservation." The bill exempts from its provisions any farm winery or limited brewery that, prior to July 1, 2016, holds a valid license or pending application for a license that is subsequently granted by the Alcoholic Beverage Control Board and is located on land zoned as agricultural district or classification or land otherwise permitted by a locality for farm winery or limited brewery use. The bill allows any such farm winery or limited brewery that is located on land zoned residential conservation to expand existing buildings or structures and construct new buildings or structures if approved by the locality by special exception.

HB 883 (Habeeb): Comprehensive plan; telecommunications towers. Provides that a proposed telecommunications tower, and certain other facilities, shall be deemed to be substantially in accord with the

comprehensive plan and planning commission approval shall not be required if the proposed telecommunications tower or facility is located in a zoning district that allows such telecommunications towers or facilities by right.

HB 903 (Stolle): Commonwealth Center for Recurrent Flooding Resiliency. Designates the Commonwealth Center for Recurrent Flooding Resiliency jointly at Old Dominion University, the Virginia Institute of Marine Science, and The College of William and Mary to (i) serve, advise, and support the Commonwealth by conducting interdisciplinary studies and investigations and (ii) provide training, technical and nontechnical services, and outreach in the area of recurrent flooding and resilience research to the Commonwealth and its political subdivisions

HB 908 (Minchew): Electrical transmission lines; effect on historic resources. Requires the State Corporation Commission (SCC), prior to approving the construction of any electrical transmission lines of 138 kV or more, to determine that the corridor or route chosen for the line will avoid any adverse impact on the scenic assets, historic resources, and environment of the area concerned. If the SCC determines that no route or corridor exists that can avoid any such adverse impact, the SCC is directed to choose the corridor or route that minimizes such adverse impacts to the greatest extent reasonably practicable. Currently, the SCC is required to determine that such a line's corridor or route will reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned.

HB 1212 (Hesel): Chesapeake Bay Watershed Implementation Plan. Directs state agencies to remove the Chesapeake Bay coastal watershed from inclusion in the York or James River Basin for purposes of the Chesapeake Bay Watershed Implementation Plan.

HB 1249 (Hesel): York River; scenic and historic designations. Designates the portion of the York River that flows for approximately 20 miles from the border of York and James City Counties to the Chesapeake Bay as a component of the Virginia Scenic Rivers System and declares it to be a state historic river.

HB 1297 (Marshall): Certain uses in industrial zones; cost of infrastructure. Provides that a zoning ordinance shall provide that any proposed data center, or similar land use, that will require utilization of a 150 kilovolt or greater electrical transmission line shall be located only in an area that has been zoned for industrial use for a period of at least 18 months prior to final governing body approval. Alternatively, a governing body may authorize a data center, or similar land use, that will require utilization of a 150 kilovolt or greater electrical transmission line to be located outside an area that has been zoned for industrial use for a period of at least 18 months if the owner of the data center is required to pay for all infrastructure and utilities needed to service the data center including a requirement imposed by a locality that transmission lines carrying 150 KV or greater to such data center be placed underground.

HB 1364 (Campbell): Board of Housing and Community Development; revision of the Uniform Statewide Building Code and the Statewide Fire Prevention Code; distillery operations. Requires the Board of Housing and Community Development (the Board) to revise the Uniform Statewide Building Code and the Statewide Fire Prevention Code, as appropriate, to exempt from such codes barrel storage by distillery operations licensed by the Alcoholic Beverage Control Board in order to conform to federal fire code provisions. The bill provides alternatively that the Board may revise such codes to increase the current 30-gallon limit for barrel storage to 120 gallons in the control area of the distillery where distillation occurs.

SB 136 (Favola): Electrical transmission line siting; hearing requested by locality. Requires the State Corporation Commission (SCC) to hold at least one hearing in the area that would be affected by construction of an electrical transmission line of 138 kV or more, upon the request of the governing body of any county or municipality through which the line is proposed to be built. Currently the SCC is required to conduct a hearing in the affected area if requested by 20 or more interested parties. The measure also provides that the affected localities are given the same protections whenever a significantly different route is deemed desirable by the SCC.

SB 416: Limited Residential Lodging Act; penalty (Vogel): Establishes the Limited Residential Lodging Act (the Act), which allows persons to rent out their primary residences or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restriction prohibiting such short-term rentals, but authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance, prohibiting persons from renting

their primary residences if they fail to pay applicable taxes, and requiring persons renting their primary residences to register with the locality. A hosting platform must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. The bill defines "limited residential lodging," "booking transaction," and "hosting platform" and provides for penalties for violations of the Act. The bill contains a reenactment clause and directs the Virginia Housing Commission to convene a work group to further study the issues presented in the bill and make recommendations for consideration by the 2017 Session of the General Assembly.

SB 481 (Ebbin): Vacant building registration. Requires either that a vacant building be vacant for 12 months or that it meet the definition of "derelict building" under § 15.2-907.1 before cities and certain towns may require the building's owner to register it and pay an annual registration fee. Current law requires that such a building comply with both the vacancy period and the definition of "derelict building."

SB 515 (McPike): Mobile food vending in commuter lots in Planning District 8; fees; security. Allows mobile food vending units to apply for a permit and pay a fee to the Department of Transportation that would allow them to sell food in commuter lots in Planning District 8. The bill requires the Department to establish criteria for the program and a fee for the permit and to publish the permit application form and the established fee for the permit on its website.

SB 624 (Locke): York River; scenic and historic designations. Designates the portion of the York River that flows for approximately 20 miles from the border of York and James City Counties to the Chesapeake Bay as a component of the Virginia Scenic Rivers System and declares it to be a state historic river.

SB 736 (Obenshain): Statewide Fire Prevention Code; City of Harrisonburg; installation or use of landscape cover materials. Provides that notwithstanding any provision of law, general or special, any ordinance in effect and any ordinance adopted by the governing body of the City of Harrisonburg shall not include in any local fire prevention regulations a requirement that an owner of real property who has an occupancy permit issued by the City use specific landscape cover materials or retrofit existing landscape cover materials at such property.

TRANSPORTATION

HB 190 (Bulova): Northern Virginia Transportation Authority. Provides that the population criterion required for decisions of the Northern Virginia Transportation Authority shall be the estimates, not the projections, made by the Weldon Cooper Center for Public Service of the University of Virginia and provides that the population estimates shall be adjusted once the estimates are available for July 1 of the fifth year after the decennial census. Under current law, the population estimates are adjusted on July 1 of the fifth year, which requires use of the previous year's data.

HB 181 (Minchew): Northern Virginia Transportation Commission; membership. Increases the number of nonlegislative citizen members of the Northern Virginia Transportation Commission from 13 to 14 by increasing from one to two the members who represent Loudoun County.

HB 728 (LeMunyon): State and local transportation planning; homeland security. Requires that the results of Department of Transportation reviews of proposed local comprehensive plan amendments for issues related to homeland security be provided concurrently to the submitting locality and the Northern Virginia Transportation Authority.

HB 730 (LeMunyon): Commuter parking lot signage. Requires that signage in commuter parking lots owned by the Virginia Department of Transportation in Planning District 8 clearly indicate that parking in such lots is only for commuters using mass transit or who are car pool or bicycle riders.

HB 731 (LeMunyon): Members of transportation district commissions; compensation. Allows the Northern Virginia Transportation Commission to reimburse its nonelected members appointed to the board of directors of the Washington Metropolitan Area Transit Authority (WMATA) for expenses incurred and compensate them in the amount of \$50 per day for attending WMATA meetings.

HB 732 (LeMunyon): State and local transportation planning. Provides that in Planning District 8 (Northern Virginia) the Department of Transportation's review of a proposed rezoning shall consider the transportation impact of the proposed rezoning on all interstate, primary, and secondary roads within a five-mile radius of the proposed rezoning.

HB 1359 (Peace): Transit Capital Project Revenue Advisory Board. Establishes the Transit Capital Project Revenue Advisory Board (the Advisory Board) within the Department of Rail and Public Transportation to examine the effects of the loss of state transit capital funds and identify additional sources of revenue. The Advisory Board is required to provide both an interim and a final report on its work and findings. The Advisory Board expires on July 1, 2018.

REAL ESTATE/CONDOMINIUMS

HB 512 (Bulova): Provisions of subdivision ordinance. Provides that a locality's subdivision ordinance shall include the submission of a certification by the developer of a common interest community subject to the Property Owners' Association Act (§ 55-508 et seq.) that the developer has reviewed the best practices developed under subdivision A 8 of § 54.1-2349 of the Code of Virginia and given consideration to the best practices in drafting the declaration.

HB 548 (Watts): Property Owners' Association Act; fees for disclosure packets. Conforms the maximum fee that may be charged for an association disclosure packet by a property owners' association to that in corresponding provisions in the Condominium Act: (i) a fee not to exceed \$150 for no more than two hard copies of the association disclosure packet or (ii) a fee not to exceed a total of \$125 for an association disclosure packet in electronic format. The bill requires that such fees be adjusted every five years on the basis of the Consumer Price Index. The bill contains technical amendments.

HB 558 (Orrock): Onsite sewage systems and private wells; evaluation and design. Directs the State Health Commissioner to develop a plan for the orderly reduction and elimination of evaluation and design services by the Department of Health for onsite sewage systems and private wells, which shall provide for the protection of the public health as the Department transitions to accepting only applications that are supported by private site evaluations and designs from a licensed professional engineer or licensed onsite soil evaluator or, for any work subject to regulations governing private wells in the Commonwealth, by a licensed water well system provider. The Commissioner shall report to the Governor and the General Assembly by November 15, 2016.

HB 650 (Marshall): Local government; mandatory provisions of a subdivision ordinance; notice to homeowner associations. Requires a locality to include in its subdivision ordinance a provision requiring a developer of property to give written notice to incorporated property owners' associations within a planned unit development at such time as prescribed in the ordinance under certain circumstances.

HB 684 (Peace): Condominium and Property Owners' Association Acts; rental of units and lots; disclosure packets. Prohibits a unit owners' association or property owners' association from charging an annual or monthly rental fee or any other fee not expressly authorized in the Condominium Act or Property Owners' Association Act, respectively. The bill also (i) provides that an association has no authority to evict a tenant; (ii) provides that if an owner designates a person licensed by the Real Estate Board as the owner's authorized representative with respect to any lease, the association shall recognize such representation without a formal power of attorney; and (iii) adds certain definitions regarding delivery and receipt of disclosure documents. The bill conforms the Property Owners' Association Act to the Condominium Act relating to provision of disclosure documents in electronic form and charges therefor. The bill contains technical amendments.

HB 710 (Watts): Property Owners' Association Act; fees for disclosure packets. Conforms the maximum fee that may be charged for an association disclosure packet by a property owners' association to that in corresponding provisions in the Property Owners' Association Act for associations that are professionally managed: (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized

agent, the purchaser, or the purchaser's authorized agent. The disclosure packet shall be provided directly to the designated persons at the same time it is delivered to the seller or his authorized agent. Only one fee shall be charged for the preparation and delivery of the disclosure packet. The bill requires that such fees be adjusted every five years on the basis of the Consumer Price Index. The bill contains technical amendments.

HB 745 (Bell): Virginia Residential Property Disclosure Act; required disclosures; septic tanks. Adds to the mandatory disclosure for wastewater systems the provision that purchasers are advised to exercise whatever due diligence they deem necessary to determine the costs associated with any pump-out of septic tanks, annual inspection, and repair.

HB 746 (Bell): Virginia Residential Property Disclosure Act; required disclosures; zoning and permitted uses of adjacent parcels. Requires the disclosure to purchasers of the zoning classification or permitted uses of parcels adjacent to the parcel that is being purchased.

HB 1101 (Villaneuva): Automatic notification of registration of sex offenders; common interest communities. Provides that the association for a common interest community may request and receive from the State Police notice of the registration or reregistration of sex offenders whose registered address is in the same or a contiguous zip code as that of the common interest community.

HB 1146 (Hope): Permitting or licensure; locality shall not require consent of homeowners' association. Prohibits a locality from requiring the consent of a condominium association, homeowners' association, or real estate cooperative prior to the issuance of a permit, certificate, or license, including a building permit or a business license.

HB 1264 (Robinson): Virginia Residential Property Disclosure Act; representations related to covenants and restrictions affecting the property. Provides that, in delivering the residential property disclosure statement to a prospective purchaser of residential property under the Virginia Residential Property Disclosure Act, the owner makes no representations with respect to (i) any covenants and restrictions that may be recorded in land records that affect the real property or any improvements located on the property, (ii) the zoning classification or permitted uses of adjacent parcels, or (iii) the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks. The bill replaces a reference to "certified home inspection" with "home inspection," relating to a prospective purchaser's exercise of due diligence. The bill requires the Virginia Housing Commission (the Commission) to study the provisions of the Virginia Residential Property Disclosure Act (the Act) to determine whether the required disclosures contained in the Act may be consolidated or otherwise addressed in a more comprehensive way. The Commission shall report its findings and any recommendations for legislation to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology by November 1, 2016.

SB 237 (Petersen): Virginia Property Owners' Association Act; condemnation of common area; valuation. Provides that, for the purposes of condemnation, the value of a portion of a common area of a property owners' association shall be based on the common area's highest and best use as though it were free from restriction to sole use as a common area. The bill also provides that it applies solely to condemnation actions, and no common area shall be reassessed for property tax purposes due to the passage of the bill or the valuation standards described in the bill.

SB 389 (Surovell): Permitting or licensure; locality shall not require consent of homeowners' association. Prohibits a locality from requiring consent of a condominium association, homeowners' association, or real estate cooperative prior to the issuance of a permit, certificate, or license, including a building permit or a business license.

SJ 80 (Locke): Study; Virginia Housing Commission to study mandatory disclosure of relevant information to purchasers of historic properties without homeowner associations; report. Directs the Virginia Housing Commission to study mandatory disclosure of relevant information by sellers of historic properties without homeowner associations to prospective purchasers of such properties.

ENVIRONMENTAL

HB 438 (Bulova): Sediment reduction credits. Authorizes Municipal Separate Storm Sewer System (MS4) permittees to acquire and use sediment reduction credits as part of a compliance strategy for implementing the Chesapeake Bay TMDL. Currently, MS4s have similar authority for nitrogen and phosphorus; the bill adds a third pollutant, sediment. The sediment credits cannot be used if they are associated with phosphorus credits used in stormwater nonpoint nutrient runoff water quality criteria.

HB 448 (Cox): Acquisition of nutrient offset credits. Allows a new or expanding facility registered under the Watershed General Permit to acquire nutrient offset credits, on land located in the same tributary as the facility, on which best management practices have been implemented that would achieve reductions greater than those currently required by federal or state law or the Chesapeake Bay TMDL Watershed Implementation Plan. The bill also allows the acquisition of credits or the allocation of credits under the general permit for a period longer than the current five-year restriction, subject to the approval of the State Water Control Board.

HB 465 (Head): Private well permits; validity. Provides that permits for the construction of private wells, other than express well construction permits, shall be valid for the same time period and subject to the same limitations as permits for septic tanks.

HB 466 (Head): Environmental permit conditions. Prohibits the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board from reviewing or amending a permit or certificate solely on the basis of the proximity of the permitted operation to a public greenway, defined in the bill as any system of hiking, biking, or horseback trails established by a locality or other political subdivision.

HB 479 (Kory): Posting notice of possible water pollution. Requires a locality, upon receipt of notification from the Department of Environmental Quality that a water quality violation has occurred that poses an imminent threat to the health, safety, or welfare of the public, to post signage at public access points to affected waters warning residents that the water body may be polluted.

HB 558 (Orrock): Onsite sewage systems and private wells; evaluation and design. Directs the State Health Commissioner to develop a plan for the orderly reduction and elimination of evaluation and design services by the Department of Health for onsite sewage systems and private wells, which shall provide for the protection of the public health as the Department transitions to accepting only applications that are supported by private site evaluations and designs from a licensed professional engineer or licensed onsite soil evaluator or, for any work subject to regulations governing private wells in the Commonwealth, by a licensed water well system provider. The Commissioner shall report to the Governor and the General Assembly by November 15, 2016.

HB 566 (Knight): Licensed onsite soil evaluators; terminology. Changes references to authorized onsite soil evaluators to the more accurate term "licensed onsite soil evaluators."

HB 741 (Miller): Virginia Board for Asbestos, Lead, and Home Inspectors; licensing of home inspectors. Requires home inspectors to be licensed by the Virginia Board for Asbestos, Lead, and Home Inspectors (the Board). Currently home inspectors must be certified. The bill has a delayed effective date of July 1, 2017, and requires the Board to promulgate regulations to implement the bill's provisions to be effective no later than July 1, 2017. The Board's initial adoption of such regulations is exempt from the Administrative Process Act (§ 2.2-4000 et seq.), with the exception that the Board must provide an opportunity for public comment prior to adoption. The bill contains a technical amendment.

HB 1080 (Hodges): Onsite sewage systems. Clarifies that designs for treatment works from individuals licensed as professional engineers shall comply with horizontal setback requirements applicable to public and private drinking water sources, lakes and other impounded waters, streams and rivers, shellfish waters, and karst-related surface features necessary to protect public health and the environment. The bill also provides that effluent and ground water sampling requirements of the Board of Health shall not apply to alternative onsite sewage systems sized at 1,000 gallons per day or smaller unless a Notice of Violation has been issued and that the Board of Health shall not have the authority to regulate, restrict, define, or prohibit any ground modification or improvement techniques associated with standard engineering practice for the purpose of meeting any performance requirements.

HB 1162 (Tyler): Conservation of ground water. Directs the State Water Control Board to establish a voluntary ground water conservation incentive program. The program is designed to provide incentives to those ground water permittees who agree to adopt measures that would (i) substantially reduce their reliance on ground water,(ii) transition to alternative water sources, or (iii) develop necessary infrastructure. The permittee would have to agree to either a 50 percent reduction in the amount authorized by its permit or certificate that is in effect on January 1, 2015, or achieve a comparable level of conservation by any combination of authorized withdrawal amount reduction and alternative options approved by the Board. These conditions are referred to as "qualification criteria" and will be used to determine the permittee's eligibility for the program. If a permittee is accepted into the program he will have a transition period, not to exceed 15 years, to meet the criteria. Each permittee that agrees to the qualification will have the benefit of a "regulatory certainty" period of 20 years during which the amount of withdrawal cannot be reduced, except in limited circumstances.

HB 1180 (Heretick): Conservation of ground water. Directs the State Water Control Board to establish a voluntary ground water conservation incentive program. The program is designed to provide incentives to those ground water permittees who agree to adopt measures that would (i) substantially reduce their reliance on ground water,(ii) transition to alternative water sources, or (iii) develop necessary infrastructure. The permittee would have to agree to either a 50 percent reduction in the amount authorized by its permit or certificate that is in effect on January 1, 2015, or achieve a comparable level of conservation by any combination of authorized withdrawal amount reduction and alternative options approved by the Board. These conditions are referred to as "qualification criteria" and will be used to determine the permittee's eligibility for the program. If a permittee is accepted into the program he will have a transition period, not to exceed 15 years, to meet the criteria. Each permittee that agrees to the qualification will have the benefit of a "regulatory certainty" period of 20 years during which the amount of withdrawal cannot be reduced, except in limited circumstances.

HB 1250 (Wilt): Virginia Erosion and Stormwater Management Act; consolidation of programs; opt-out for certain localities; penalties. Combines existing statutory programs relating to soil erosion and stormwater management, directing the State Water Control Board (the Board) to permit, regulate, and control both erosion and stormwater runoff.

The bill requires any locality that operates a municipal separate storm sewer system (MS4) or a Virginia Stormwater Management Program (VSMP) to adopt a Virginia Erosion and Stormwater Management Program (VESMP) that regulates any land-disturbing activity that disturbs an area of 10,000 square feet or more, or 2,500 square feet or more if in a Chesapeake Bay Preservation Area. A locality that lacks an MS4 and for which the Department of Environmental Quality (DEQ) is currently administering a VSMP is required to (i) adopt such a VESMP, (ii) adopt such a VESMP with DEQ conducting plan review and making recommendations on the compliance of each plan with technical criteria, or (iii) continue to operate a separate Virginia Erosion and Sediment Control Program (VESCP) that regulates any disturbance of 10,000 square feet or more and, in a Preservation Area, regulates a disturbance of 2,500 square feet or more and meets certain other requirements. Any eligible locality that chooses the third option is to have a VSMP administered on its behalf by the Board for any land-disturbing activity that disturbs one acre or more of land, including an activity that disturbs a smaller area but is part of a larger development that results in a disturbance of one acre or more. Towns are afforded additional options in relation to the counties in which they are located.

The bill directs certain charges or penalties to the Stormwater Local Assistance Fund, which provides matching grants to local governments for stormwater best management practices. Finally, the bill directs DEQ to evaluate fees related to the consolidated Virginia Erosion and Stormwater Management Program and directs the Board to adopt regulations to carry out the purposes of the bill, delaying the effective date of the bill until the later of July 1, 2017, or 30 days after the adoption of such regulations.

HB 1340 (Hodges): Administration of stormwater management programs. Requires the Department of Environmental Quality to operate stormwater management programs that regulate land-disturbing activities that disturb from 2,500 square feet to up to one acre in localities east of Interstate 95 that fall under the provisions of the Chesapeake Bay Preservation Act and that elect not to operate such a program.

SB 118 (Lucas): Conservation of ground water. Directs the State Water Control Board to establish a voluntary ground water conservation incentive program. The program is designed to provide incentives to those ground water permittees who agree to adopt measures that would (i) substantially reduce their reliance on ground water, (ii) transition to alternative water sources, or (iii) develop necessary infrastructure. The permittee would have to agree to either a 50 percent reduction in the amount authorized by its permit or certificate that is in effect on January 1, 2015, or achieve a comparable level of conservation by any combination of authorized withdrawal amount reduction and alternative options approved by the Board. These conditions are referred to as "qualification criteria" and will be used to determine the permittee's eligibility for the program. If a permittee is accepted into the program he will have a transition period, not to exceed 15 years, to meet the criteria. Each permittee that agrees to the qualification will have the benefit of a "regulatory certainty" period of 20 years during which the amount of withdrawal cannot be reduced, except in limited circumstances.

SB 361 (Favola): Tree conservation ordinance. Provides that the ordinance may allow a locality to post signs on private property that is proposed to be redeveloped with one single family home that notifies the public that an infill lot grading plan is pending for review before the locality. The locality may not require the applicant to be responsible for such posting, and the failure to post the property shall not be a ground for denial of such grading plan.

SB 407 (Wexton): Onsite sewage systems; civil penalties. Provides that any locality that has a record of the location of conventional onsite sewage systems and alternative discharging systems and that meet certain other criteria may adopt an ordinance establishing a uniform schedule of civil penalties for violations of specified provisions for the operation and maintenance of such systems. Currently, the provisions apply only to alternative onsite sewage systems. The bill also provides that no criminal action shall proceed if the violation is abated or remedied through civil enforcement.

SB 468 (Wagner): Local stormwater utility; public-private partnership. Authorizes the creation of public-private stormwater management programs and adds contracting for the construction and operation of stormwater management facilities to the list of activities for which a local stormwater utility is authorized

SB 484 (DeSteph): Stormwater management regulations; water quality and quantity design criteria; unenforceable unless amended. Prohibits the enforcement of any design criterion concerning water quality or quantity contained in Part II B of the stormwater management regulations until the State Water Control Board amends the design criteria to bring them up to date, correct the errors they contain, and coordinate them with the rest of the stormwater management regulations. Until the regulations are reissued, the design criteria contained in Part II C shall apply instead.

SB 542 (Obenshain): Delinquent sewer charges; lien; unlimited time. Allows a locality that provides water or sewer service to a property owner, rather than to a tenant, to place a lien on the property receiving the service in the amount of the number of months of delinquent charges. Current law allows the placement of liens in the amount of up to three months of delinquent water and sewer charges.

SB 598 (DeSteph): Erosion and sediment control; stormwater management program. Clarifies that certain flow rate capacity and velocity requirements for plans approved on and after July 1, 2014, shall be satisfied by compliance with Virginia Stormwater Management Program (VSMP) Regulations where the land-disturbing activity is conducted in accordance with extended permit coverage regulations.

SB 689 (Petersen): Virginia Erosion and Stormwater Management Act; consolidation of programs; opt-out for certain localities; penalties. Combines existing statutory programs relating to soil erosion and stormwater management, directing the State Water Control Board (the Board) to permit, regulate, and control both erosion and stormwater runoff.

The bill requires any locality that operates a municipal separate storm sewer system (MS4) or a Virginia Stormwater Management Program (VSMP) to adopt a Virginia Erosion and Stormwater Management Program (VESMP) that regulates any land-disturbing activity that disturbs an area of 10,000 square feet or more, or 2,500 square feet or more if in a Chesapeake Bay Preservation Area. A locality that lacks an MS4 and for which the Department of Environmental Quality (DEQ) is currently administering a VSMP is required to (i) adopt such a VESMP, (ii) adopt

such a VESMP with DEQ conducting plan review and making recommendations on the compliance of each plan with technical criteria, or (iii) continue to operate a separate Virginia Erosion and Sediment Control Program (VESCP) that regulates any disturbance of 10,000 square feet or more and, in a Preservation Area, regulates a disturbance of 2,500 square feet or more and meets certain other requirements. Any eligible locality that chooses the third option is to have a VSMP administered on its behalf by the Board for any land-disturbing activity that disturbs one acre or more of land, including an activity that disturbs a smaller area but is part of a larger development that results in a disturbance of one acre or more. Towns are afforded additional options in relation to the counties in which they are located.

The bill directs certain charges or penalties to the Stormwater Local Assistance Fund, which provides matching grants to local governments for stormwater best management practices. Finally, the bill directs DEQ to evaluate fees related to the consolidated Virginia Erosion and Stormwater Management Program and directs the Board to adopt regulations to carry out the purposes of the bill, delaying the effective date of the bill until the later of July 1, 2017, or 30 days after the adoption of such regulations.

SB 698 (Wexton): Dam Safety, Flood Prevention and Protection Assistance Fund. Authorizes the Director of the Department of Conservation and Recreation to disburse moneys from the Fund in the form of grants to private entities that own dams in order to protect public safety and welfare. The grants can be used for the design, repair, and the safety modifications of dams identified in safety reports. The bill specifies homeowners' associations and planned unit developments among those private entities owning dams that are eligible to receive grants and loans from the Fund.

SB 726 (Edwards): Erosion and sediment control plans; utility company projects. Clarifies that the permission given to utility companies to file annually general erosion and sediment control standards and specifications with the Department of Environmental Quality does not apply to a project that disturbs 50 acres of land or more in any one locality. A utility company undertaking such a project will be required to file a project-specific plan.

TAXATION

HB 15 (Ware): Personal property tax; classifications. Provides that if an item of tangible personal property falls within multiple classifications for local taxation, the rate of taxation is the lowest rate assigned to such classifications. Current law provides that such personal property tax treatment applies only to motor vehicles and to computer equipment and peripherals used in a data center.

HB 80 (Byron): Property certified as tax exempt; effective date of tax exemption. Provides that once the required certification for tax exemption is made by a state or local authority for pollution control equipment and other real and personal property that is required to be certified in order to be exempt, such property will be deemed to be exempt as of the date the property is placed in service. Current law requires that certain pollution control, recycling, and solar energy real and personal property placed in service must be certified as being used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth in order to be exempt from local property taxes but does not specify the beginning date for the exemption.

HB 127 (Knight): Real property tax exemption; spouse of military service member killed in action. Clarifies that "killed in action" includes a determination by the U.S. Department of Defense of "died of wounds received in action" for purposes of the real property tax exemption on the residence of the surviving spouse.

HB 148 (Fowler): Real property tax assessment; date to fix tax rate. Changes from April 15 to May 15 the date by which a county, city, or town is required to fix the real property tax rate for taxes due on or before June 30.

HB 339 (Pogge): Recordation tax; exemption. Provides an exemption from the grantor's tax if the grantor is a locality at a judicial sale of tax-delinquent property. The bill also provides an exemption from recordation tax for any deed of trust that secures a loan made by a locality to a borrower whose household income does not exceed 80% of the area median household income established by the U.S. Department of Housing and Urban Development for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home.

HB 421 (Helsel): Real property tax exemptions; military members and their surviving spouses. Extends the property tax exemptions for the principal residences of certain disabled veterans and surviving spouses of members of the armed forces killed in action to include real property improvements made to the land surrounding such residences so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects and (ii) for other than a business purpose.

HB 526 (Hodges): Living shorelines; tax exemption. Provides that any living shoreline project approved by the Virginia Marine Resources Commission or the applicable local wetlands board and not prohibited by local ordinance shall qualify for full exemption from local property taxes.

HB 596 (Simon): Recordation tax; exemption. Exempts from recordation tax (i) certain deeds of partition and (ii) deeds transferring property pursuant to a divorce decree. Under current law, the tax on such deeds is \$0.50.

HB 872 (Hugo): Sales and use tax exemption; certain data centers. Extends the sunset date for the sales and use tax exemption for certain data centers from June 30, 2020, to June 30, 2035, and eliminates the sunset date of June 30, 2020, for provisions of the existing law that allow the owner of the data center to count the jobs created and investments made by tenants to count toward the overall jobs and investment criteria for the exemption. If an entity previously created 50 new jobs at a data center in the Commonwealth in order to qualify for the exemption, those 50 jobs may be relocated to a new data center in the Commonwealth with a capital investment of at least \$500 million on or after July 1, 2016, and count toward the new jobs requirement for the new data center to qualify for the exemption. The bill also makes a technical correction regarding a subdivision that is erroneously set out twice in the Code.

HB 884 (Hugo): Research and development expenses tax credits. Modifies the existing research and development expenses tax credit and creates a similar tax credit for businesses with Virginia research and development expenses in excess of \$5 million for the taxable year. The bill changes the existing tax credit by (i) extending the expiration date from January 1, 2019, to January 1, 2022; (ii) increasing the credit from 15 percent of the first \$234,000 of the business's Virginia qualified research and development expenses that exceed a base amount to 15 percent of the first \$300,000 of such expenses and from 20 percent of the first \$234,000 of such expenses to 20 percent of the first \$300,000 of such expenses if the research and development was conducted in conjunction with a Virginia college or university; (iii) establishing an alternative computation for the tax credit at the election of the taxpayer beginning with taxable year 2016; and (iv) increasing from \$6 million to \$7 million the maximum amount of tax credits that may be granted by the Department of Taxation for each fiscal year beginning with fiscal year 2017.

HB 910 (Minchew): Appeal of local tax assessments; confidentiality. Provides that, prior to the release of any confidential tax information pursuant to a discovery order, with regard to an application for relief to a circuit court to correct erroneous assessments of local taxes, the court shall issue an order stating that no entity or person who has obtained such confidential information shall disclose, exhibit, or discuss the information except as otherwise provided in the order. The bill requires that any outside expert or person who may be called as a witness given access to such confidential information be required to sign an acknowledgment of the order and agree to be bound by its terms and subject to the jurisdiction of the court for its enforcement.

HB 1069 (Jones): Toll collection procedures, fees, and penalties; period of nonpayment; notice of unpaid tolls; reciprocity agreements and enforcement. Requires the Department of Transportation to allow E-ZPass account holders to provide an email or phone number and to electronically notify account holders of a toll violation and further requires toll operators to notify the Department of such toll violations. The bill amends the definition of high-occupancy toll (HOT) lanes to ensure that mass transit vehicles and commuter buses meet the high-occupancy requirement. The bill lengthens, from 30 to 60 days, the time period before the administrative fee increases from \$25 to \$100 for all toll violations. The bill decreases the civil penalties for an unpaid toll violation on the HOT lanes, making them equal to civil penalties for other toll violations, and allows the HOT lanes operator to offer reduced civil penalties if the owner of the vehicle pays within 14 days prior to the hearing date, which is also permitted for other toll operators. For violations on any toll road, the bill provides that for a first conviction there is a cap of \$2,200 on civil penalties and administrative fees. The bill also provides for a 10-day grace period for unpaid tolls and requires toll operators to attempt to process and collect unpaid tolls twice during such period. The bill allows the Governor to enter into agreements on behalf of the Commonwealth with other states to provide for the enforcement

of tolling violations occurring in Virginia on out-of-state residents and to enforce tolling violations in other states on Virginia residents. Reciprocity agreements with other states would provide for notification of the Commissioner of the Department of Motor Vehicles (DMV) or other similar entity in another state so that violators who have not paid would have their registration suspended in accordance with the agreement. The bill allows for agreements between toll operators or high-occupancy toll (HOT) lanes operators and DMV to include necessary information to enforce reciprocity agreements. The bill states that a toll violation on the HOT lanes is a traffic infraction and that a HOT lanes operator shall mail the statutorily required invoice for unpaid tolls, as is the case for other toll violations. The bill clarifies references to the issuance of summonses for toll violations and requires toll operators to attempt to collect tolls through a debt collector before mailing a summons. The bill provides for a two-year statute of limitations for all toll violations.

HB 1203 (Yost): Real property tax exemption; disabled veterans and the spouse of a service member killed in action. Provides that the real property tax exemption for the residence of a disabled veteran, or the residence of the spouse of a service member killed in action, (i) includes manufactured homes whether or not the wheels and other equipment previously used for mobility have been removed and (ii) applies to residences whether or not the veteran or the spouse owns the land on which the residence is located.

HB 1147 (Hope): Transient occupancy tax; Arlington County. Permits Arlington County to impose an additional transient occupancy tax at a rate not to exceed one-fourth of one percent. The revenues from the tax shall be spent solely for the purpose of promoting tourism and business travel in the county. The bill has a sunset date of July 1, 2018.

FREEDOM OF INFORMATION ACT

HB 281 (Marshall): FOIA; exclusion pursuant to nondisclosure agreement; building permits. Removes any building permit submitted to a locality for final approval from an exclusion from the provisions of the Freedom of Information Act (FOIA) that otherwise protects confidential proprietary records of a private business pursuant to a nondisclosure agreement made with a public body.

HB 816 (LeMunyon): Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. Reverses the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell*, by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law. Further, the bill states that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under FOIA or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed. The bill defines the term "information" and provides that it is declaratory of the law as is it existed prior to the September 17, 2015, decision of the Supreme Court of Virginia in the case of the *Department of Corrections v. Surovell*. The bill also reverses that part of the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by providing that in a FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. The bill contains technical amendments.

HB 817 (LeMunyon): Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. Reverses the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell*, by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law. Further, the bill states that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under FOIA or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed. The bill defines the term "information" and provides that it is declaratory

of the law as it existed prior to the September 17, 2015, decision of the Supreme Court of Virginia in the case of the *Department of Corrections v. Surovell*. The bill also reverses that part of the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by providing that in a FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. The bill contains technical amendments.

HB 818 (LeMunyon): Virginia Freedom of Information Act (FOIA); designation of FOIA officer; posting of FOIA rights and responsibilities. Requires certain local public bodies to post a FOIA rights and responsibilities document on their respective public government website. The bill also requires all state public bodies created in the executive branch of state government, including state authorities, and all local public bodies that are subject to FOIA to designate and publicly identify one or more FOIA officers whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of FOIA. The bill sets out where contact information for the designated FOIA officer is to be posted. The bill requires that any such FOIA officer shall possess specific knowledge of the provisions of FOIA and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council.

SB 493 (Surovell): Virginia Freedom of Information Act (FOIA); closed meeting not authorized for discussion of compensation matters for local governing bodies and elected school boards. Clarifies that nothing in the personnel exemption in the open meetings law of FOIA shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

SB 645 (McPike): Virginia Freedom of Information Act (FOIA); exempt records concerning critical infrastructure information. Defines the term "critical infrastructure information" for purposes of FOIA. The bill also provides that any public body receiving a request for such records shall notify the Secretary of Public Safety and Homeland Security or his designee of the request and the response made by the public body. The bill contains an emergency clause.

MISCELLANEOUS

HB 201 (Knight): Housing; removal of obsolete provisions; correction of citation. Removes obsolete language regarding staggered terms for members of the Manufactured Housing Board and corrects a citation to the Housing Revitalization Zone Act (§ 36-157 et seq. of the Code of Virginia). This bill is a recommendation of the Virginia Code Commission.

HB 230 (Minchew): Judicial creation of trusts. Clarifies that a circuit court may create and establish a trust upon petition of an interested party. The bill states that its provisions are declarative of existing law.

HB 234 (Sullivan): Corporate action without board meeting. Establishes a procedure by which actions of the board of directors of a nonstock corporation may be taken without a meeting by fewer than all of the directors if authorized in the articles of incorporation. Such action without a meeting of the board requires the consent of a majority or quorum of the members of the board. Action under this procedure by fewer than all of the directors requires the corporation to give written notice of the proposed corporate action to all directors not less than 10 business days before the action is taken. Such action is not permitted if any director objects to the taking of such proposed action within 10 business days after notice of the proposed action is given.

HB 237 (Petersen): Absentee voting by electronic means; overseas military voters. Provides that a person qualified to vote by absentee ballot because of his status as a member of a uniformed service on active duty may choose to receive and return his absentee ballot by electronic means. The bill requires the State Board of Elections to develop standards for the secure transmission and return, storage, and processing of these ballots, including methods for authentication and the encryption of ballots. The bill has a delayed effective date of January 1, 2017.

HB 412 (Kilgore): Local regulation of certain aircraft. Provides that no locality may regulate the use of privately owned, unmanned aircraft systems within its boundaries. The provisions of the bill expire on July 1, 2019.

HB 441 (Loupassi): Nonsuits; tolling of limitations; contractual limitation periods. Provides that a voluntary nonsuit tolls both a contractual limitation period and a statutorily governed limitation period.

HB 567 (Miller): Real Estate Board; duties of real estate licensees; residential real estate transactions. Authorizes the Real Estate Board to take a disciplinary case against a licensee under advisement, defer a finding in such case, and dismiss such action upon terms and conditions set by the Board. Among other things, the bill (i) authorizes the Real Estate Board to grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship; (ii) requires the supervising broker of a branch office to provide the name and license number of each real estate licensee working in the branch; (iii) prohibits a real estate licensee in a residential real estate transaction from acting as a nonstandard agent; (iv) provides that standard agency only applies in residential real estate transactions; (v) clarifies that the agency provisions apply unless they are modified by the brokerage agreement; (vi) provides that the law relating to real estate licensees retained by sellers, buyers, tenants, or landlords to lease property or to manage property only applies to residential real estate transactions; (vii) provides that notwithstanding any other provision of law requiring written brokerage agreements or governing the duties of licensees, nothing shall be construed to require that a written agreement between a licensee and a prospective buyer or tenant be executed prior to the licensee's showing properties to the prospective buyer or tenant; (viii) deletes the disclosure of brokerage obligation in commercial transactions; and (ix) provides that commercial agents may only act as agents or independent contractors. The bill also provides that nothing creates a civil cause of action against a real estate licensee for false information. The bill contains technical amendments.

HB 611 (Bell): Regulation of water and sewer utilities. Makes water and sewer companies subject to the rules of the State Corporation Commission (SCC) regarding meetings and communications between SCC commissioners and any party, or between commissioners and staff, concerning any fact or issue arising out of a proceeding involving the regulation of rates, charges, services, or facilities of a utility. The bill requires a public utility to send notice of a proposed rate increase electronically to customers who receive bills electronically. Water or sewer utilities are required to publish notice of changes in rates, tolls, charges, rules, and regulations at least once in one or more newspapers in circulation in its franchise area. The measure bars the SCC from dispensing with notice requirements applicable to water and sewer companies.

HB 641 (Leftwich): Jurisdiction of general district court; arbitration. Establishes that the general district courts have concurrent jurisdiction with the circuit courts to submit matters to arbitration where the amount in controversy is within the jurisdictional limits of the general district court. The bill provides that any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal the decision to the circuit court. The introduced bill was a recommendation of the Boyd-Graves Conference.

HB 757 (Bell): Meetings of local or regional public bodies; public comment. Requires a local or regional public body to disseminate to the public an agenda for a public meeting at least seven days prior to the meeting or 24 hours prior to an emergency meeting. The bill also requires such body to provide at least five minutes for public comment on each agenda item at the public meeting.

HB 834 (Cox): Virginia Growth and Opportunity Act; report. Establishes the Virginia Growth and Opportunity Board to administer grants from the Virginia Growth and Opportunity Fund for regional economic and workforce development projects. The bill provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-sector growth, competitiveness, and workforce development. A portion of the grant funds will be awarded on a population basis and a portion on a competitive basis.

HB 846 (Hugo): Virginia Collaborative Economic Development Act. Creates the Virginia Collaborative Economic Development Performance Grant Fund (the Fund). The Fund will be administered by a policy board created by legislation adopted by the 2016 Session of the General Assembly with a legislatively stated purpose of promoting collaborative regional economic development and workforce development opportunities (the Go Virginia Board). If no such board is created, the Virginia Economic Development Partnership (the Partnership) will administer the Fund. Two or more localities that collaborate and adopt a collaborative economic development plan will be eligible for grants from the Fund over a period of six years if the collaboration results in the location or expansion of a company in the Commonwealth that (i) creates at least 200 new jobs with average salaries at least 25

percent higher than the average wage and (ii) makes a capital investment of at least \$25 million. The company must maintain the job creation and investment for a period of three years before being eligible for the first grant payment. The total amount of the grant applied for shall not exceed the total investment of the localities in executing the collaborative economic development plan, and each annual installment of the grant may not exceed 50 percent of the total annual amount of personal income tax withheld by the certified company from the newly created jobs. Upon making a written finding of significant fiscal distress in or extraordinary economic opportunity for the participating localities, the Go Virginia Board (or the Partnership if the Board does not exist) may lower the job and capital investment requirements to no fewer than 25 new jobs and no less than \$1 million in capital investment and may award up to 100 percent of the total investment of the localities. The grant program will sunset on July 1, 2026.

HB 964 (Davis): Board for Contractors; exemptions from licensure. Exempts from licensure any person who performs the construction, removal, repair, or improvement of real property retained by a licensed contractor, provided that (i) such person (a) is authorized to transact business in the Commonwealth pursuant to one of the business entity statutes administered by the State Corporation Commission, (b) possesses a valid business license in accordance with Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1, and (c) carries workers' compensation insurance and other required insurance coverage and (ii) the work performed by such person is under the direct supervision and control of the retaining licensed contractor.

HB 1011 (Massie): Rental inspection programs; exemptions. Authorizes a locality to exempt a residential rental unit otherwise subject to a rental inspection ordinance if the unit is managed by (i) any person licensed as a real estate firm, real estate salesperson or broker, or business entity salesperson; (ii) any (a) property manager or (b) managing agent of a landlord; (iii) any owner of a publicly traded entity that manages its own multifamily residential rental units; or (iv) any owner or managing agent who, in the determination of the local governing body, has achieved a satisfactory designation as a professional property manager.

HB 1040 (Ransone): Elections; voter-nominated primary elections. Establishes a voter-nominated primary election for the offices of Governor, Lieutenant Governor, and Attorney General and for the General Assembly and the United States Senate and House of Representatives. A voter-nominated primary election is an election held for the purpose of selecting candidates to be on the ballot at a general election. All candidates, regardless of political party affiliation, are on a single ballot. The two candidates receiving the highest and next highest number of votes are the candidates for that office at the general election. The political parties may not select to nominate candidates for these offices by any nominating method, but are permitted to otherwise contribute to, endorse, or support a candidate for these offices.

HB 1209 (Collins): Landlord and tenant laws; tenant's assertions; forms of relief. Provides that a general district court may (i) terminate a lease upon the request of the tenant or (ii) order the dwelling unit surrendered to the landlord if the landlord prevails on a request for possession in an unlawful detainer action. Under current law, the court may decide to terminate the lease without a request for termination by the tenant. The bill contains technical amendments.

HB 1362 (Gilbert): Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate report of gifts; definition of procurement transaction; technical amendments. Requires the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts to be filed annually. Lobbyists are required to file by July 1 for the preceding 12-month period complete through the last day of April, and persons subject to the conflict of interests acts are required to file on or before January 15. The bill also requires the Governor, Lieutenant Governor, and Attorney General, members of the Governor's Cabinet, and members of the General Assembly to file on or before May 1 a separate report of gifts received during the period beginning January 1 through adjournment sine die of the regular session of the General Assembly. Effective January 1, 2017, the bill removes from the Code the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts and requires the Virginia Conflict of Interest and Ethics Advisory Council (Council) to prescribe the forms to be used to comply with disclosure requirements.

The bill also makes numerous other changes related to lobbyist reporting and the conflict of interests acts, including (i) exempting from the definition of a gift any gift with a value of less than \$20; (ii) providing that the filing of a single disclosure form by a person subject to the conflict of interests acts satisfies the filing requirement for all

positions or offices held or sought by such person; (iii) clarifying that lobbying disclosure forms are filed with the Council and are open to public inspection and copying in the office of the Council, and not the Secretary of the Commonwealth; (iv) clarifying that candidates for statewide office, the General Assembly, and constitutional office are required to file a statement of economic interests with the Council; (v) authorizing travel provided to facilitate attendance by a legislator at certain meetings where attendance is approved by the Chairman of the House or Senate Committee on Rules in addition to approval by either committee; (vi) clarifying that gifts to certain members of a lobbyist's family are not considered gifts; (vii) providing that the definition of procurement transaction for purposes of the laws governing lobbyists is limited to those transactions in which the stated or expected value of the contract is \$5 million or more; (viii) providing that records relating to formal advisory opinions or informal advice of the Council shall be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act; (ix) providing that a lobbyist's principal is not required to disclose the name of a legislative or executive official, or a member of his immediate family, who attends a reportable entertainment event if that legislative or executive official reimburses the principal for, or otherwise pays for, his attendance or the attendance of a member of his immediate family at the entertainment event; and (x) authorizes the Council to grant an extension from a filing deadline for good cause. The bill contains an emergency clause that applies to the changes described in clauses (vii) through (x).

Finally, the bill requires that the Supreme Court of Virginia report to the Council by October 1, 2016, on the application of the conflict of interests acts on members of the judiciary and evaluate the feasibility of creating separate provisions that would apply to such member.

SB 43 (Carrico): Time of municipal elections. Clarifies that a city or town may move the time of its local elections to the November general election pursuant to statutory authority notwithstanding any contrary provisions of its charter.

SB 109 (Petersen): Commissioners in eminent domain proceedings. Requires commissioners in eminent domain proceedings to be summoned at least 30 days prior to service. Under current law, such summons is required at least one week prior to service.

SB 181 (Chafin): Augmented estate; elective share of surviving spouse. Revises provisions of the Code related to the elective share of the surviving spouse of a decedent dying on or after January 1, 2017, to track revisions made to the Uniform Probate Code by the Uniform Law Commission. The bill calculates the elective share of the surviving spouse as a graduated percentage, taking into account both spouses' assets and the length of marriage. Under current law, the surviving spouse is awarded 50% of the estate if there were no children and 33.3% if there were children. The bill also clarifies the process by which the elective share is to be claimed and provides instructions for the valuation of assets to encourage uniformity in the method of calculation of the elective share.

SB 190 (Miller): Voting systems; use of direct recording electronic machines. Prohibits the use of direct recording electronic machines (DREs) in elections on and after July 1, 2020. The governing bodies of counties and cities have been prohibited from acquiring DREs for use in elections since July 1, 2007, but under current law the use of previously acquired DREs is permitted for the remainder of their useful life. The bill also removes references to DREs in other sections of the Code and makes technical amendments to terminology.

SB 309 (Hangar): Annexation. Extends the current moratorium on city annexations and county immunity actions by six years to 2024. Provisions that would trigger the early expiration of the moratorium if the General Assembly fails to appropriate certain amounts for local law-enforcement expenditures are exempted through the 2022-2024 biennium. The Commission on Local Government is directed to evaluate the structure of cities and counties in the Commonwealth and the impact of annexation upon localities. In doing so, the Commission shall consider alternatives to the current moratorium on annexation by cities. The Commission shall issue its findings and recommended policy changes to the General Assembly no later than December 1, 2018.

SB 377 (Vogel): Landlord and tenant law; tenant remedies. Provides that a general district court may (i) terminate a lease upon the request of the tenant, or (ii) order the dwelling unit surrendered to the landlord if the landlord prevails on a request for possession in an unlawful detainer action. Under current law, the court may decide to terminate the lease without a request for termination by the tenant.

SB 453 (Stanley): Virginia Board for Asbestos, Lead, and Home Inspectors; licensing of home inspectors. Provides that beginning July 1, 2017, home inspectors must be licensed by the Virginia Board for Asbestos, Lead, and Home Inspectors (the Board). Currently, home inspectors must be certified. The bill requires the Board to promulgate regulations to implement the provisions of the bill effective no later than July 1, 2017, and exempts the Board's initial adoption of such regulations from the Administrative Process Act (§ 2.2-4000 et seq.), with the exception that the Board must provide an opportunity for public comment prior to adoption. The bill contains a technical amendment.

SB 478 (Obenshain): Eminent domain; reimbursement of costs. Provides that costs and fees may be awarded in compensation actions initiated by public service companies, public service corporations, railroads that have been delegated the power of eminent domain, or government utility corporations where the amount that the owner is awarded at trial as compensation for the taking of or damage to his real property is 30 percent or more greater than the amount of the petitioner's final written offer. The bill further provides that, for owners whose property is taken by condemnation under Title 25.1 or Title 33.2, costs and fees may be awarded where such compensation is 25 percent or more greater than the amount of the condemnor's initial written offer.

The provisions of the bill do not apply to condemnation proceedings in which the petitioner filed, prior to July 1, 2016, a petition in condemnation or a certificate of take or deposit. The provisions of § 25.1-245 in effect prior to July 1, 2016, shall govern condemnation proceedings in which a petitioner filed a petition in condemnation or certificate of take or deposit after July 1, 2005, and prior to July 1, 2016.

SB 530 (Stuart): Cable franchises. Provides that local ordinances to adopt a cable franchise shall require that a cable operator make service available in areas where the average occupied residential household density is not less than 20 occupied residential dwelling units per mile as measured from the physical address of the nearest dwelling or building at which service from the provider is available. The current statute requires a standard of not less than 30 occupied residential dwelling units per mile as measured from the nearest technically feasible point on the cable operator's active cable system.

SB 688 (Petersen): Limited liability companies; registered agent. Authorizes a limited liability company (LLC) to designate an officer of the LLC as its registered agent. An officer of an LLC is defined in this measure as an employee of the LLC, other than a member or manager of the LLC, who has been designated by the LLC as a person upon whom any process, notice, or demand may be served. The measure requires such a registered agent or his designee to be available during regular business hours at the registered office to accept service of any process, notice, or demand.

L0234804.DOCX