

Legislative Update



HANOVER COUNTY LEGISLATIVE AGENDA 2014 GENERAL ASSEMBLY SESSION

FEBRUARY 12, 2014

HB 333 School Calendar.

Patron: Thomas A. "Tag" Greason (Lansdowne)

Makes local school boards responsible for setting the school calendar and determining the opening date of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of Education may grant waivers of this requirement. The bill contains technical amendments.

02/11/14 House: VOTE: PASSAGE #2 (75-Y 24-N)

HB 66 School resource officers.

Patron: David I. Ramadan (South Riding)

Requires each local school board to place a school resource officer in each public elementary and secondary school. All costs resulting from the requirement shall be paid from the Lottery Proceeds Fund.

01/28/14 House: Subcommittee recommends laying on the table by voice vote

HB 67 Composition of Commonwealth Transportation Board.

Patron: David I. Ramadan (South Riding)

Increases the total membership of the Commonwealth Transportation Board to 22 members by doubling the representation for the Richmond, Hampton Roads, and Northern Virginia highway constructions districts.

12/06/13 House: Referred to Committee on Transportation

HB 178 Virginia Retirement System; assumed rate of return on investments.

Patron: Peter F. Farrell (Richmond)

Provides that if the General Assembly adopts an assumed rate of return on investments that is different from the rate used by the Board of the Virginia Retirement System (VRS) in determining employer contribution rates for contributions to VRS, the Board shall recalculate the employer contribution rate for each employer to incorporate the assumed rate of return adopted by the General Assembly. The Board is required to provide each employer with its adjusted employer contribution rate as soon as possible.

01/30/14 House: Subcommittee recommends striking from docket by voice vote

HB 199 Legislation affecting local government expenditures or reductions.

Patron: R. Steven Landes (Verona)

Requires the Division of Legislative Services to identify and forward to the Commission on Local Government (Commission) joint resolutions introduced calling for a study of local government expenditures or revenues. The bill also authorizes the Department of Planning and Budget and the Department of Taxation to forward to the Commission bills introduced requiring additional local government expenditures or a reduction in local government revenues.

02/06/14 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

02/07/14 Senate: Referred to Committee on Rules

HB 431 State and local tax reform; study; report.

Patron: James M. LeMunyon (Chantilly)

Creates a joint legislative subcommittee to perform a two-year study on reforming state and local taxes. The joint subcommittee will assume the tasks of the Joint Subcommittee to Evaluate Tax Preferences, which the bill dissolves.

01/30/14 House: Subcommittee recommends laying on the table by voice vote

HB 434 Machinery and tools, merchants' capital and BPOL taxes; maximum rates established.

Patron: James M. LeMunyon (Chantilly)

Prohibits a locality from increasing its business machinery and tools tax, merchants' capital tax, and local license (BPOL) fees and taxes above the locality's rates in effect as of January 1, 2014.

02/03/14 House: Continued to 2015 in Finance by voice vote

HB 513 Removal of certain local government appointees.

Patron: Rick L. Morris (Carrollton)

Provides that any appointee of a local governing body to a local board, commission, or committee, whether pursuant to § 15.2-1411 or any other provision of the Code, shall serve at the pleasure of the local governing body and may be removed at any time.

01/09/14 House: Assigned CC & T sub: #1

HB 527 Group homes; zoning.

Patron: Brenda L. Pogge (Norge)

Provides that for purposes of zoning, a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Currently, such facilities are required to have one or more resident counselors or other staff persons to qualify for this zoning designation.

01/22/14 House: VOTE: BLOCK VOTE PASSAGE (97-Y 0-N)

01/23/14 Senate: Referred to Committee on Local Government

HB 597 Richmond Metropolitan Authority; name; composition of Board of Directors; powers.

Patron: G. Manoli Loupassi (Richmond)

Renames the Authority as the Richmond Regional Transportation Authority and equalizes Board representation among the City of Richmond, Chesterfield County, and Henrico County. The bill requires that certain actions of the Authority related to construction or acquisition of limited access highways or acquisition of rights to operate existing toll roads receive approval from the local governing bodies. Local approval also is required for the issuance of bonds by the Authority. The bill allows the governing body of each locality to appoint one of its own members as a member of the Board of the Authority, clarifies the appointment process for the three Richmond representatives on the Board, and prohibits Board members from receiving health insurance or other benefits for their service on the Board.

02/11/14 House: VOTE: PASSAGE (89-Y 8-N)

HB 617 Personal property tax; classification.

Patron: Glen R. Davis (Virginia Beach)

Creates a classification for personal property tax rate purposes of property owned by a business during its first two years of operation, if the business's annual gross revenues do not exceed \$100,000. A locality may impose a rate of tax on such property that is lower than the rate on the general class of tangible personal property.

01/30/14 House: VOTE: PASSAGE (88-Y 11-N)

01/31/14 Senate: Referred to Committee on Finance

HB 633 Local fiscal impact bills; first day introduction.

Patron: Terry G. Kilgore (Gate City)

Requires local fiscal impact bills to be introduced no later than the first day of the session.

01/31/14 House: Continued to 2015 in Rules by voice vote

HB 697 Local implementation of Stormwater Management Program.

Patron: Charles D. Poindexter (Glade Hill)

Delays the date that local governments will have to assume responsibility for administering the Stormwater Management Program from July 1, 2014 to July 1, 2015.

01/23/14 House: Subcommittee recommends laying on the table by voice vote

HB 1173 Stormwater management programs; optional for some localities.

Patron: M. Keith Hodges (Urbanna)

Allows any locality that does not operate a municipal separate storm sewer system (MS4) to opt out of establishing Virginia Stormwater Management Programs. Localities that notify the Department of Environmental Quality of their decision to opt out shall have their stormwater programs managed by the Department.

02/05/14 House: VOTE: PASSAGE EMERGENCY (93-Y 1-N)

02/06/14 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

HB 788 Virginia Freedom of Information Act; out-of-state requests for records.

Patron: James M. LeMunyon (Chantilly)

Sets out the process for public bodies to respond to record requests made by out-of-state requesters.

02/06/14 House: Continued to 2015 in General Laws by voice vote

HB 1088 Capital Regional Airport Commission.

Patron: Riley E. Ingram (Hopewell)

Updates the police power provision of the Commission.

02/05/14 House: VOTE: BLOCK VOTE PASSAGE (95-Y 0-N)

02/06/14 Senate: Referred to Committee on Local Government

HB 1127 Voting equipment; DREs; Voting Equipment Grant Program and Fund.

Patron: David I. Ramadan (South Riding)

Prohibits the use of direct recording electronic machines (DREs) and requires the use of ballot scanning systems in all elections beginning January 1, 2019. The bill establishes the Voting Equipment Grant Program and Fund, through which the governing body of a county or city may apply for a grant for an amount equal to 50 percent of the cost of the new ballot scanning systems purchased, leased, or otherwise acquired by the governing body in the period of time beginning July 1, 2014, and ending December 31, 2018.

01/31/14 House: Failed to report (defeated) in Privileges and Elections (10-Y 12-N)

HB 1230 Line of Duty Act; funding and review.

Patron: Mark D. Sickles (Franconia)

Creates a Line of Duty Death and Health Benefits Fund and provides for the funding of Line of Duty claims. The bill also establishes an advisory review board to assist the Comptroller in the review of claims involving a claimant who has not received a disability determination from the Virginia Retirement System, Social Security Administration, Workers' Compensation Commission, or any recognized retirement system or who is, as of the time the claim for benefits had been filed, working in an alternative position.

02/06/14 House: Subcommittee recommends laying on the table by voice vote

HJ 40 Study; JLARC; Medicaid-funded transportation services in the Commonwealth; report.

Patron: David B. Albo (Springfield)

Directs the Joint Legislative Audit and Review Commission (JLARC) to review the Commonwealth's contract with Logisticare for Medicaid-funded transportation services, identify remedies and alternatives available to the Commonwealth to resolve the issues surrounding Logisticare's questionable performance, and review the Department of Medical Assistance Service's oversight of the Commonwealth's contract with Logisticare. The resolution provides that the Commonwealth's contract with Logisticare not be renewed or extended prior to the completion of this study. The resolution requests that JLARC report its findings no later than the first day of the 2015 Regular Session.

02/10/14 House: VOTE: ADOPTION (70-Y 29-N)

02/11/14 Senate: Referred to Committee on Rules

SB 48 Prohibition on oil and gas drilling.

Patron: Richard H. Stuart (Montross)

Prohibits the drilling for oil and gas in the Eastern Virginia Groundwater Management Area. When the General Assembly enacted the Groundwater Management Act in 1973, it declared that the continued, unrestricted usage of groundwater is contributing and will contribute to pollution and the shortage of groundwater, thereby jeopardizing the public welfare, safety, and health. The Act recognized that the state has the right to the reasonable control of all groundwater resources in order to conserve, protect, and beneficially utilize the groundwater of the Commonwealth. The bill would apply to groundwater and the associated aquifers in the coastal plain of Virginia. The bill would also require the Department of Environmental Quality to adopt regulations protecting surface and ground water resources before the Department of Mines, Minerals and Energy issues a drilling permit in those areas of Tidewater where such activity is allowed.

02/05/14 Senate: Passed Senate (28-Y 12-N)

02/07/14 House: Referred to Committee on Commerce and Labor

SB 523 Local fiscal impact bills; first day introduction.

Patron: Frank M. Ruff, Jr. (Clarksville)

Requires local fiscal impact bills to be introduced no later than the first day of the session.

02/07/14 Senate: Stricken at request of Patron in Rules (17-Y 0-N)

HB 519 Zoning; attorney fees.

Patron: Rick L. Morris (Carrollton)

Provides that a court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in a zoning action brought against it or that successfully challenge the validity of a zoning ordinance.

01/17/14 House: Stricken from docket by Courts of Justice by voice vote

HB 1089 Zoning; agricultural products.

Patron: Rick L. Morris (Carrollton)

Clarifies the definition of agricultural products.

02/05/14 House: VOTE: BLOCK VOTE PASSAGE (95-Y 0-N)

02/06/14 Senate: Referred to Committee on Local Government

HB 268 Agricultural operations; local regulation of certain activities

Patron: Robert D. Orrock, Sr. (Thornburg)

Protects customary agritourism activities at agricultural operations from local bans in the absence of substantial impacts on the public welfare and requires localities to take certain factors into account when regulating agritourism activities. The bill requires a basis in health, safety, or public welfare for a local ordinance that restricts any of several activities: the conduct of agritourism activities, the sale of agricultural or silvicultural products or related items, the preparation or sale of foods that otherwise comply with state law, and other customary activities. Localities are prohibited from subjecting those listed activities to a special-use permit requirement, and in most situations localities are prevented from stringently regulating the sound produced by the listed activities.

01/28/14 House: VOTE: PASSAGE (73-Y 23-N)

01/29/14 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

HOUSE BILL NO. 268

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources)

(Patron Prior to Substitute--Delegate Orrock)

House Amendments in [] -- January 27, 2014

A BILL to amend the Code of Virginia by adding a section numbered 15.2-2288.6, relating to local regulation of activities at agricultural operations.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2288.6 as follows:

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations.

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2 or [as authorized under § 15.2-2288.3 authorized to any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1,] or to restrict the authority of any locality under Title 58.1.

2. That the Virginia Department of Agriculture and Consumer Services shall continue the On-Farm Activities Working Group.

HB 1084 Damages for unconstitutional grant or denial by locality of certain permits and approvals.

Patron: Rick L. Morris (Carrollton)

Provides that any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, where such grant included, or denial was based upon, an unconstitutional condition pursuant to the United States Constitution or Constitution of Virginia, shall be entitled to an award of damages, reasonable attorney fees, and court costs and to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without such conditions. The bill also provides that once an unconstitutional condition has been proven by the aggrieved applicant to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept the unconstitutional condition was the controlling basis for such impermissible grant or denial.

02/07/14 House: VOTE: PASSAGE (88-Y 7-N 1-A)

02/10/14 Senate: Referred to Committee on Local Government

HOUSE BILL NO. 1084

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on February 3, 2014)

(Patron Prior to Substitute--Delegate Morris)

A BILL to amend the Code of Virginia by adding a section numbered 15.2-2208.1, relating to unconstitutional grant or denial by localities of certain permits and approvals; damages, attorney fees, and costs.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2208.1 as follows:

§ 15.2-2208.1. Damages for unconstitutional grant or denial by locality of certain permits and approvals.

A. Notwithstanding any other provision of law, general or special, any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, including a special exception, special use permit, conditional use permit, rezoning, site plan, plan of development, and subdivision plan, where such grant included, or denial was based upon, an unconstitutional condition pursuant to the United States Constitution or the Constitution of Virginia, shall be entitled to an award of compensatory damages and to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without the unconstitutional condition and may be entitled to reasonable attorney fees and court costs.

B. In any proceeding, once an unconstitutional condition has been proven by the aggrieved applicant to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept the unconstitutional condition was the controlling basis for such impermissible grant or denial provided only that the applicant objected to the condition in writing prior to such grant or denial.

C. Any action brought pursuant to this section shall be filed with the circuit court having jurisdiction of the land affected or the greater part thereof, and the court shall hear and determine the case as soon as practical, provided that such action is filed within the time limit set forth in subsection F of § 15.2-2285 or subsection C or D of § 15.2-2259, as may be applicable.

2. That the provisions of this act shall apply only to approvals or permits that are granted or denied on or after July 1, 2014.