

Virginia Planning & Zoning **2015 Legislative Update**

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LAND USE

HB 1471 (Bulova): Affordable housing. Adds the City of Fairfax to the list of localities with authority to provide for an affordable housing dwelling unit program. This bill is identical to **SB 889**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 390 (effective 7/1/15)

HB 1507 (Edmunds): Dan River; designating certain segment as State Scenic River. Designates a 38.6-mile segment of the Dan River as part of the Virginia Scenic Rivers System. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 46 (effective 7/1/15)

HB 1594 (Cole): Outdoor advertising; regulation by county governing bodies. Allows county governing bodies to take over from the Commissioner of Highways the regulation of authorized outdoor advertising or notices that are on public park or school property owned by the county and are not visible from interstates or other components of the National Highway System. **Status:** 03/26/15 Governor: Approved by Governor-Chapter 607 (effective 7/1/15)

HB 1756 (James): Tourism zones; tax revenues for tourism projects. Decreases from 80 percent to 70 percent the share of the total cost of a tourism project that the project must have in place before being eligible to receive a percentage of the state and local sales and use tax revenues generated on the premises of the project, to be used toward debt service to bridge the gap between available debt and equity capital and the expected costs of the project. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 203 (effective 7/1/15)

HB 1849 (Marshall): Zoning appeals, board of; applications for variances. Changes the standard by which a board of zoning appeals shall grant an application for a variance by eliminating or altering several of the requirements. **Status:** 03/26/15 Governor: Approved by Governor-Chapter 597 (effective 7/1/15)

HB 1875 (Kory): Remote access to land records; fee; Department of Historic Resources. Exempts the Department of Historic Resources from paying the fee for remote access to land records. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 65 (effective 7/1/15)

HB 2094 (Peace): Limitation of prosecution for Building Code violations. Provides that prosecutions for Uniform Statewide Building Code violations relating to the maintenance of existing buildings or structures shall commence within one year of the issuance of a notice of violation for the offense by the building official. Under current law, such prosecutions shall commence within one year of the discovery of the offense by the building official. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 176 (effective 7/1/15)

HB 2103 (Peace): Virginia Board for Asbestos, Lead, and Home Inspectors; new home inspections; penalty. Makes it unlawful for any person who is not a certified home inspector and who has not successfully completed the training module required by § 54.1-517.2 to conduct a home inspection on any new residential structure. The bill also authorizes the Virginia Board for Asbestos, Lead, and Home Inspectors (the Board) to issue a certificate to practice as a certified home inspector to any applicant who, in addition to other requirements, has submitted satisfactory evidence that he has successfully completed such training module, which the bill requires the Board to develop in conjunction with the Department of Housing and Community Development, based on the International Residential Code component of the Virginia Uniform Statewide Building Code. The bill has a delayed effective date of July 1, 2016, with the exception of provisions relating to the development of the training module, which become effective in due course.

HB 2283 (Hodges): Enforcement of the Uniform Statewide Building Code by certain state-recognized Indian tribes. Authorizes a state-recognized Indian tribe to be responsible for the enforcement of the Uniform Statewide Building Code (USBC) on any Indian reservation recognized by the Commonwealth if the Indian tribe has adopted the USBC by tribal ordinance and (i) assumed sole responsibility for existing buildings and new construction on the reservation and (ii) retained firms or individuals to function as the building official for purposes of enforcing the ordinance. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 135 (effective 7/1/15)

HJ 521 (Poindexter): Virginia's Rail Heritage Region; designating certain areas in the Commonwealth. Designates Virginia's Rail Heritage Region in the Commonwealth, consisting of the Counties of Alleghany, Amherst, Bedford, Botetourt, Campbell, Franklin, and Roanoke and the Cities of Covington, Lynchburg, Roanoke, and Salem, as well as the Towns of Amherst, Bedford, Boones Mill, Buchanan, Clifton Forge, Iron Gate, Rocky Mount, Troutville, and Vinton. **Status:** 02/25/15 House: Bill text as passed House and Senate (HJ521ER)

SB 744 (Locke): Boards of zoning appeals; City of Portsmouth. Adds the City of Portsmouth to a provision requiring the governing body to appoint members and alternates to the board of zoning appeals. Under the general law, the circuit court appoints the members of a locality's board of zoning appeals. This bill is identical to **HB 1758**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 407 (effective 7/1/15)

SB 809 (Stanley): Virginia Economic Development Partnership Authority; assessment of industrial sites. Authorizes the Virginia Economic Development Partnership Authority to develop a site and building assessment program to assess the state's industrial sites consisting of at least 250 acres. **Status:** 03/19/15 Governor: Approved by Governor-Chapter 342 (effective 7/1/15)

SB 1257 (Smith): Cash proffers for residential construction; sunset date. Removes the July 1, 2017, expiration date of a current law that delays the payment of certain per-dwelling-unit cash proffers until after the final inspection of the subject property and prior to the issuance of any certificate of occupancy. The removal of the sunset date also extends existing provisions protecting a right to delayed payment of cash proffers and allowing a court to award fees and costs to a party that prevails in a legal challenge to a conflicting ordinance. In addition, the bill repeals the July 1, 2017, expiration date of a 2009 act of assembly that lowered the cap on the administrative costs a locality could charge a developer for the dedication of a public right-of-way from 25 percent to 10 percent of the estimated construction cost. This bill incorporates **SB 726** and **SB 1065**. **Status:** 03/19/15 Governor: Approved by Governor-Chapter 346 (effective 7/1/15)

SB 1272 (Deeds): Alcoholic beverage control; limited distiller's license. Creates a limited distiller's license for distilleries that (i) manufacture no more than 36,000 gallons of spirits per calendar year, (ii) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner, and (iii) use agricultural products grown on the farm in the manufacture of its alcoholic beverages. The bill also establishes local and state taxes for limited distiller's licenses and prevents local regulation of certain activities by such licensees. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 695 (effective 7/1/15)

SB 1355 (Reeves): Local planning commission; action on proposed plat. Applies certain provisions, including a 60-day time limit, to the process of approval by any local planning commission of a plat or site plan that solely involves commercial real estate. Currently, the provisions apply only to planning commissions in localities with a population greater than 90,000 based on the 2000 United States Census. The bill contains technical amendments. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 420 (effective 7/1/15)

SB 1435 (Deeds): Eminent domain; lost profits and just compensation. Requires that any and all liability for lost profits claimed in an action for compensation pursuant to a taking under eminent domain be set forth specifically in the award for just compensation and that in a partial acquisition, in the event that the owner of the property being condemned and the owner of the business or farm operation claiming lost profits are the same, then any enhancement shall be offset against both damage to the residue and lost profits. The bill also defines lost profits as a loss of business profits for a period not to exceed three years from the date of valuation if there is a partial taking and for a period not to exceed one year from the date of valuation if the entire parcel of property is taken. **Status:** 03/26/15 Governor: Approved by Governor-Chapter 642 (effective 7/1/15)

SB 1443 (Miller): Comprehensive plan; sea-level rise. Provides that any locality included in the Hampton Roads Planning District Commission shall incorporate into the next scheduled and all subsequent reviews of its comprehensive plan strategies to combat projected relative sea-level rise and recurrent flooding. The bill requires such review to be coordinated with the other localities in the Hampton Roads Planning District Commission. The bill requires the Department of Conservation and Recreation, the Department of Emergency Management, the Marine Resources Commission, Old Dominion University, and the Virginia Institute of Marine Science to provide technical assistance to any such locality upon request. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 186 (effective 7/1/15)

SB 1448 (Vogel): Community development authorities. Provides that any special tax levied or any special assessment imposed by a locality pursuant to an agreement with a community development authority, whether previously or hereafter levied or imposed, constitutes a lien on real estate ranking on parity with real estate taxes, and any such delinquent special tax or delinquent special assessment may be collected in accordance with established procedures. The bill contains an emergency clause. **Status:** 03/06/15 Governor: Approved by Governor-Chapter 39 (effective 3/06/15)

TRANSPORTATION

HB 1402 (Loupassi): Highway maintenance payments; bicycle and transit lanes. Provides that cities and towns that receive highway maintenance payments from the Commonwealth based on moving-lane-miles of highway will not have such payments reduced if moving-lane-miles of highway are converted to transit-only lanes and allows the City of Richmond to convert 20 moving-lanes to bicycle lanes and not lose its maintenance payment. The bill also directs the Secretary of Transportation to report by December 1, 2015, on an appropriate maintenance formula for bicycle lanes. **Status:** 04/15/15 Governor: Acts of Assembly Chapter text (CHAP0722)

HB 1470 (LaRock): Revenues by the Northern Virginia Transportation Authority. Includes transit projects in those transportation projects that will be rated by VDOT in accordance with § 33.2-257 before they are funded by the Authority. The bill has a delayed effective date of July 1, 2016. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 458 (effective 7/1/16)

HB 1827 (Scott): Exemption for routine highway maintenance projects. Exempts routine highway maintenance projects of the Virginia Department of Transportation from the requirements of the Erosion and Sediment Control Act, including the reduction of flow runoff rates. This exemption is consistent with the exemption for similar routine highway maintenance projects under the Stormwater Management Program. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 497 (effective 7/1/15)

HB 1886 (Jones): Public-Private Transportation Act; finding of public interest. Establishes the requirements for a finding of public interest and requires such a finding prior to an initiation of procurement. The bill also establishes the Transportation Public-Private Partnership Advisory Committee to determine by a majority vote whether a VDOT or Department of Rail and Public Transportation project meets the finding of public interest and to report such determination to the General Assembly. The bill also requires certification of the finding prior to the execution of a comprehensive agreement and requires the public-private partnership guidelines to incorporate the finding. The bill also requires VDOT to establish (i) a process for identifying high-risk projects and (ii) procurement processes and guidelines for such projects to ensure that the public interest is protected. **Status:** 03/26/15 Governor: Approved by Governor-Chapter 612 (effective 7/1/15)

HB 1887 (Jones): Transportation funding; formula, reporting, and allocations. Removes the Executive Director of the Virginia Port Authority from the Commonwealth Transportation Board (CTB) and makes the members of the CTB subject to removal by the Governor for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflicts of interest, failure to carry out the policies of the Commonwealth, or refusal to carry out a lawful directive of the Governor. Both provisions would become effective July 1, 2016. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 684 (effective - see bill)

HB 1915 (LeMunyon): Northern Virginia Transportation Authority; regional plan. Requires NVTA's regional transportation plan to make reducing congestion in Planning District 8 its primary objective to the greatest extent

practicable. The bill requires each locality embraced by the Authority to annually report to the Authority any land use or transportation elements of its comprehensive plan that are not consistent with the regional transportation plan. This bill is identical to **SB 1314**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 477 (effective 7/1/15)

HB 2235 (Rust): HOT lanes; law-enforcement vehicles. Clarifies the circumstances under which law-enforcement vehicles may use HOT lanes without paying a toll. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 73 (effective 7/1/15)

HB 2391 (Minchew): Allocation of highway funds by the Commonwealth Transportation Board. Provides that the five percent of moneys currently allocated annually by the Commonwealth Transportation Board for paving unpaved highways carrying more than 50 vehicles per day will instead be allocated for paving or improving such highways. The bill has a delayed effective date of July 1, 2016. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 676 (effective 7/1/16)

HJ 566 (Austin): Lewis & Clark Eastern Legacy Trail; designating as portion of Lewis & Clark National Historic Trail. Designates the portion of the Lewis and Clark National Historic Trail that runs through the Commonwealth as the Lewis and Clark Eastern Legacy Trail in Virginia. **Status:** 02/25/15 House: Bill text as passed House and Senate

SB 1312 Private roads (Lewis): Provides that notwithstanding any provision of a recorded deed or plat to the contrary, a private road serving a subdivision of 50 or fewer lots may be dedicated for public use and may be taken into the secondary state highway system if, prior to making such dedication and before requirements for acceptance of the road into the secondary state highway system are met, the owner of the fee interest in such private road obtains the written consent of (i) every lot owner in the subdivision whose lot is served by the private road and (ii) the holder of any restrictive covenant or easement rights over and concerning the private road. Such consent shall be recorded in the land records of the clerk's office of the circuit court of the county wherein the private road is located. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 495 (effective 7/1/15)

REAL ESTATE, CONDOMINIUM & PROPERTY OWNERS' ASSOCIATIONS

HB 1285 (Scott): Workers' compensation; definition of employee; property owners' associations. Amends the definition of employee within the Virginia Workers' Compensation Act to exclude noncompensated employees, directors, and executive officers of any entity that constitutes a property owners' association under the provisions of the Property Owners' Association Act. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 442 (effective 7/1/15)

HB 1424 (Marshall): Water or sewer systems; delinquent payment of rates and charges. Repeals a provision of the Virginia Water and Waste Authorities Act that limits a landlord's liability for a tenant's separately metered sewer or water charges to three delinquent billing periods of no more than 90 days in total. The provision being repealed also prohibits a water or sewer authority from refusing service to the affected premises, or other premises of the landlord, on account of the delinquency as long as the landlord has paid the charges for which he is liable. This bill is identical to **SB 969**. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 263 (effective 7/1/15)

HB 1451 (Miller): Landlord and Tenant Laws: Provides that in cases of a change in use, the 120-day termination notice shall not be waived, except in the case of a tenancy from month to month, which may be terminated by the landlord by giving the tenant 30 days' written notice prior to the next rent due date of the landlord's intention to terminate the tenancy. The bill, among other things, (i) allows an owner, manager, or operator of a commercial or residential building or campground to include water, sewer, electrical, natural gas, or other utilities in the amount of rent or additional rent as specified in the rental agreement or lease; (ii) prohibits a landlord from photocopying a U.S. government-issued identification under certain circumstances; (iii) allows a landlord and a tenant to agree in a rental agreement that the tenant pay prepaid rent; and (iv) allows a landlord or managing agent to enter into an agreement with a third-party service provider to maintain tenant records in electronic form or other medium. In such case, the landlord and managing agent shall not be liable in the event of a breach of the electronic data of such third-party service provider, except in the case of gross negligence or intentional act. The bill also provides that nothing

shall be construed to require a landlord or managing agent to indemnify such third-party service provider. The bill contains technical amendments.

HB 1632 (Bulova): Common Interest Community Board; duties. Requires the Common Interest Community Board to develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 268 (effective 7/1/15)

HB 1642 (Stolle): Residential property disclosure regarding special flood hazard zones. Requires the owner's representation to a prospective purchaser of residential property under the Virginia Residential Property Disclosure Act that the owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract. The bill contains technical amendments. This bill is identical to **SB 775**. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 269 (effective 7/1/15)

HB 1739 (Hodges): Landlord and tenant laws; applicability to campgrounds. Provides that campgrounds are not subject to the landlord and tenant law or the Virginia Residential Landlord and Tenant Act. The bill contains technical amendments. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 394 (effective 7/1/15)

HB 1794 (Knight): Advertisement of foreclosure sale by a trustee or trustees in execution of a deed of trust; time-share properties. Allows the optional streamlined advertisement of a time-share property being foreclosed upon, requiring publication of the time, place, and date of sale; identification of the time-share being sold; contact information for obtaining further information about the sale; and a website address where more complete information and documentation can be obtained. The bill is a recommendation of the Virginia Housing Commission. This bill is identical to **SB 1015**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 401 (effective 7/1/15)

HB 1795 (Knight): Virginia Real Estate Board; exemptions from licensure. Provides that the exemption from licensure provided for the owner of property extends in the case of property governed by the Virginia Real Estate Time-Share Act to affiliated entities of the owner where (i) the owner has a controlling interest in the affiliated entity or (ii) the affiliated entity and the owner have a common parent company. This bill is identical to **SB 1016**. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 272 (effective 7/1/15)

HB 1867 (Krupicka): Residential Landlord and Tenant Act; visible mold remediation. Provides that where there is visible evidence of mold in a dwelling unit, the landlord shall promptly remediate the mold conditions in accordance with the requirements for visible mold remediation and reinspect the dwelling unit to confirm that there is no longer any visible evidence of mold in the dwelling unit. The bill requires the landlord to make available to the tenant copies of any available written information related to the remediation of mold. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 274 (effective 7/1/15)

HB 1905 (Lopez): Landlord and tenant law; retaliatory conduct by landlord. Removes the requirement in the Virginia Residential Landlord and Tenant Act that the court determine that the "primary" reason for a landlord taking an action for possession or termination of a rental agreement is retaliation. The tenant continues to have the burden of proving retaliatory intent. The bill also adds in landlord and tenant law a provision prohibiting retaliatory conduct by the landlord. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 408 (effective 7/1/15)

HB 2055 (Pogge): Condominium Act; suspension of voting rights prohibited. Provides that except to the extent that the condominium instruments provide otherwise, the voting interest allocated to the unit or member that has been suspended by the unit owners' association or the executive organ pursuant to the condominium instruments shall not be counted in the total number of voting interests used to determine the quorum for any meeting or vote under the condominium instruments. The bill contains a technical amendment. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 214 (effective 7/1/15)

HB 2080 (Leftwich): Condominium Act and Property Owners' Association Act; notice of sale under deed of trust. Clarifies that the required notice of a sale under a deed of trust applies to individual residential lots located in a development subject to the Property Owners' Association Act. The bill also provides that upon receipt of such notice, the governing body of a unit owners' association or of a property owners' association, on behalf of the association, shall exercise whatever due diligence it deems necessary with respect to the unit or lot subject to such sale to protect the interests of the association. In addition, the bill (i) amends the definition of unit owner in the Condominium Act to include any purchaser of a condominium unit at a foreclosure sale, regardless of whether the deed is recorded in the land records where the unit is located, and (ii) adds a definition of lot owner in the Property Owners' Association Act. This bill is identical to **SB 1157**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 410 (effective 7/1/15)

HB 2100 (Peace): Condominium and Property Owners' Association Acts; allowable charges; rental of units. Conforms the Condominium Act to the Property Owners' Association Act with regard to the prohibition on a unit owners' association's charging any fees not expressly authorized by law or in the declaration. The bill also (i) provides that an association may not limit or prohibit an owner from renting his unit or lot and may not charge fees for any rental or other processing fee in excess of \$50 as a condition of approval of the rental, (ii) sets new rules for providing association disclosure documents electronically, and (iii) requires an association to maintain a website link for 90 days if the disclosure packet is provided electronically by that link. The bill contains technical amendments. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 277 (effective 7/1/15)

SB 1008 (Peterson): Condominium and Property Owners' Association Acts; Statement of unit and lot owner rights. Provides that every unit owner under the Virginia Condominium Act and every lot owner under the Property Owners' Association Act who is a member in good standing of the unit owners' association or property owners' association has the right (i) of access to all books and records kept by or on behalf of the association, (ii) to cast a vote on any matter requiring a vote by the association's membership in proportion to the unit or lot owner's ownership interest, (iii) to have notice of any meeting of the executive organ or board of directors and to record and participate in such meeting, (iv) to have notice of any proceeding conducted against the unit or lot owner to enforce any rule or regulation of the association and the opportunity to be heard and represented by counsel at such proceeding, and (v) to serve on the executive organ or board of directors if duly elected. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 286 (effective 7/1/15)

ENVIRONMENT

HB 1804 (Knight): Onsite sewage systems; waivers. Provides that an owner of real property who (i) obtained a waiver to repair a failing onsite sewage system on or between July 1, 2004, and December 6, 2011, (ii) completed such repair, and (iii) voluntarily upgrades the system may request, and shall receive, a voluntary upgrade waiver. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 111 (effective 7/1/15)

HB 1812 (Bloxom): Secretary of Natural Resources; Chesapeake Bay Watershed Agreement; annual report. Updates the requirements for the annual report concerning the Chesapeake Bay prepared by the Secretary of Natural Resources by substituting the recently agreed-to 2014 Chesapeake Bay Watershed Agreement for the Chesapeake Bay 2000 Agreement, which is now obsolete. The recipients of the report are also updated. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 475 (effective 7/1/15)

HB 1817 (Stolle): Flood protection plan. Directs the Department of Conservation and Recreation to regularly update the flood protection plan for the Commonwealth and to make the plan accessible online. This is a recommendation of the Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding. This bill is identical to **SB 1079**. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 172 (effective 7/1/15)

HB 1924 (Hodges): Eastern Virginia Groundwater Management Advisory Committee established. Establishes the Eastern Virginia Groundwater Management Advisory Committee (the Committee) to assist the Department of Environmental Quality (DEQ) in developing, revising, and implementing a management strategy for ground water in the Eastern Virginia Groundwater Management Area. The bill prohibits the State Water Control Board and the DEQ from issuing draft permits that would require reductions in the volume of permitted ground water withdrawals prior to December 31, 2015, unless otherwise agreed to by the permittee. The bill has a sunset date of January 1,

2018. This bill is identical to **SB 1341**. **Status:** 03/26/15 Governor: Approved by Governor-Chapter 613 (effective 7/1/15)

HB 1928 (Plum): Toxic substances report. Changes from annually to every odd-numbered year the interval at which the Department of Environmental Quality is required to submit to the committees of oversight a report on the reduction of toxic substances in state waters. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 173 (effective 7/1/15)

HB 2067 (Watts): Daylighted streams. Provides that the State Water Control Board (SWCB), when developing the criteria for a Resource Protection Area (RPA) under the Chesapeake Bay Preservation Act, shall not require that a daylighted stream become an RPA. The bill requires any locality that does not designate an RPA adjacent to a daylighted stream to use a water quality impact assessment to ensure that development adjacent to the stream does not result in the degradation of the stream. The locality's assessment must (i) be consistent with the SWCB's criteria for water quality impact assessments in RPAs, (ii) identify the impacts of proposed development on water quality, and (iii) determine measures to mitigate adverse impacts. The bill defines a daylighted stream as a stream that has been previously diverted into a culvert, pipe, or other underground drainage system and is redirected into an aboveground channel using natural channel design concepts. The bill does not limit a locality's authority to include such a stream within an RPA. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 674 (effective 7/1/15)

HB 2237 (Yancey): Electric utilities; costs of solar energy facilities. Authorizes an investor-owned electric utility that purchases a generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, to recover the costs of acquiring the facility, with an enhanced rate of return on equity, through a rate adjustment clause. A utility filing a petition for approval of such a project may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. The measure also states that (i) the construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 500 megawatts, that use energy derived from sunlight and are located in the Commonwealth, regardless of whether any of such facilities are located within or without the utility's service territory, and (ii) planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight with an aggregate capacity of 500 megawatts, are in the public interest. **Status:** 03/26/15 Governor: Approved by Governor-Chapter 599 (effective 7/1/15)

HB 2267 (Hugo): Virginia Solar Energy Development Authority. Creates the Virginia Solar Energy Development Authority to facilitate, coordinate, and support the development of the solar energy industry and solar-powered electric energy facilities in the Commonwealth. The Authority is directed to do so by developing programs to increase the availability of financing for solar energy projects, facilitate the increase of solar energy generation systems on public and private sector facilities in the Commonwealth, promote the growth of the Virginia solar industry, and provide a hub for collaboration between entities to partner on solar energy projects. The Authority will be composed of 11 members, of whom six will be appointed by the Governor, three will be appointed by the Speaker of the House, and two will be appointed by the Senate Committee on Rules. Members may be representatives of solar businesses, solar customers, renewable energy financiers, state and local government solar customers, and solar research academics. The Authority is charged with, among other tasks, (i) identifying existing state and regulatory or administrative barriers to the development of the solar energy industry; (ii) collaborating with entities such as higher education institutions to increase the training and development of the workforce needed by the solar industry in Virginia, including industry-recognized credentials and certifications; (iii) applying to the U.S. Department of Energy for loan guarantees for such projects; and (iv) performing any other activities as may seem appropriate to increase solar energy generation in Virginia and the associated jobs and economic development and competitiveness benefits, including assisting investor-owned utilities in the planned deployment of at least 400 megawatts of solar energy projects in the Commonwealth by 2020 through entering into agreements in its discretion in any manner provided by law for the purpose of planning and providing for the financing or assisting in the financing of the construction or purchase of solar energy projects that are authorized pursuant to a provision of Chapter 23 of Title 56. The Director of the Department of Mines, Minerals and Energy may utilize non-state-funded support to carry out any duties assigned to the Director. Funding may be provided by any source, public or private, for the purposes for which the Authority is created. The bill has a sunset date of July 1, 2025. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 398 (effective 7/1/15)

SB 1047 (Hangar): Stormwater utility fee; waiver. Provides that where two adjoining localities subject to a revenue sharing agreement each hold a permit to discharge stormwater from a municipal separate storm sewer system (MS4), a waiver of charges to a public entity for property that is covered by an MS4 permit shall also apply to property of each locality and of its school board that is accounted for in that locality's MS4 plan, regardless of whether such property is located within the adjoining locality. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 683 (effective 7/1/15)

SB 1201 (Wagner): Stormwater; municipal separate storm sewer system permittees; dredging. Directs the State Water Control Board (the Board) to establish a procedure for the approval of dredging operations in the Chesapeake Bay watershed as a method by which to meet pollutant reduction and loading requirements. The bill provides that before the Board is required to establish the procedure, the Chesapeake Bay Program shall first approve the procedure as a creditable practice for pollutant removal. The bill requires that any dredging comply with all applicable laws. The bill also provides that any locality imposing certain stormwater fees may make funds available for stormwater maintenance dredging, including at the point of discharge, where stormwater has contributed to the deposition of sediment in state waters. **Status:** 04/15/15 House: Enacted, Chapter 753 (effective 7/1/15)

SB 1203 (Wagner): Chesapeake Bay Watershed Implementation Plan. Directs state agencies to remove the Little Creek watershed from inclusion in the James River Basin for purposes of the Chesapeake Bay Watershed Implementation Plan. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 184 (effective 7/1/15)

SB 1238 (Reeves): Department of Emergency Management; electromagnetic pulses and geomagnetic disturbances. Requires the Department of Emergency Management, in carrying out its duties related to disaster preparedness planning and response, to specifically plan for disasters caused by electromagnetic pulses and geomagnetic disturbances. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 97 (effective 7/1/15)

SB 1331 (Petersen): Natural Gas Conservation and Ratemaking Efficiency Act; cost-effective programs. Requires the State Corporation Commission, when determining whether a natural gas conservation or energy efficiency program is cost-effective, to assign administrative costs associated with the conservation and ratemaking efficiency plan to the portfolio as a whole. The measure requires the assignment of education and outreach costs associated with each program in a portfolio of programs to such program, and not to individual measures within a program, when such administrative, education, or outreach costs are not otherwise directly assignable. The measure also provides that a cost-effective conservation and energy efficiency program shall not include a program designed to convert propane customers to natural gas. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 694 (effective 7/1/15)

SB 1341 (Norment): Eastern Virginia Groundwater Management Advisory Committee established. Establishes the Eastern Virginia Groundwater Management Advisory Committee (the Committee) to assist the Department of Environmental Quality (DEQ) in developing, revising, and implementing a management strategy for ground water in the Eastern Virginia Groundwater Management Area. The bill prohibits the State Water Control Board and the DEQ from issuing draft permits that would require reductions in the volume of permitted ground water withdrawals prior to December 31, 2015, unless otherwise agreed by the permittee. The bill has a sunset date of January 1, 2018. This bill is identical to **HB 1924**. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 262 (effective 7/1/15)

HB 1364 (Peace): Fees for testing and monitoring of land application of industrial wastes. Allows localities to adopt ordinances that provide for the testing and monitoring of the land application of solid or semisolid industrial wastes. The bill requires the State Water Control Board (the Board) to adopt regulations no later than January 1, 2016, requiring persons that land-apply industrial wastes to collect a fee from the generator of the industrial wastes and remit the fee to the Department of Environmental Quality (DEQ). The bill sets the fee at \$5 per ton until altered by the Board. The bill requires the Board's regulations to include procedures for (i) collection of the fees by DEQ, (ii) deposit of the collected fees into the Sludge Management Fund (the Fund), and (iii) disbursements from the Fund to localities for the testing and monitoring of the industrial wastes. The Department of Environmental Quality is required to establish and implement a program to train the employees of the localities who will be responsible for

testing and monitoring the land application of industrial wastes. The bill specifies the minimum instructional elements of the training program.

SB 1395 (Dance): Electric utilities; net energy metering. Increases, from 500 kilowatts to one megawatt, the maximum generating capacity of an electrical generating facility owned or operated by an electric utility's nonresidential customer that may be eligible for participation in the utility's net energy metering program. In addition, the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available. The measure also (i) requires any eligible customer-generator seeking to participate in net energy metering to notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility and (ii) clarifies requirements regarding the customer-generator's obligation to bear the costs of equipment required for the interconnection to the supplier's electric distribution system. The change to the definition of an eligible customer-generator affects the definition of a qualified energy project as used in the Virginia Small Business Financing Act. This bill is identical to **HB 1950**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 431 (effective 7/1/15)

TAXATION

HB 1291 (Ware): Real property tax; notice of assessments. Clarifies that the information required on the notice of assessment regarding assessments in the immediately prior two tax years refers to the immediately prior two tax years' final assessments. This bill is identical to **SB 678**. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 151 (effective 7/1/15)

HB 1483 (Rush): Real property assessment; valuation for land preservation. Permits localities to set acreage requirements less than the current five-acre requirement for agricultural property to qualify for land use valuation. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 485 (effective 7/1/15)

HB 1488 (Pogge): Conservation easements; tax benefits; disputes over terms. Allows a landowner or other party to a conservation easement to request that the Virginia Land Conservation Foundation use the Administrative Dispute Resolution Act to resolve a dispute relating to the interpretation of the easement. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 44 (effective 7/1/15)

HB 1489 (Habeeb): Local taxes; payment by a third party. Increases from 24 months to 96 months the maximum reimbursement time period for third-party tax payment agreements, in which a taxpayer repays a third party who paid local taxes on the taxpayer's behalf. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 257 (effective 7/1/15)

HB 1567 (Orrock): Tax-delinquent property; multi-jurisdictional sale. Provides a method for the sale of tax-delinquent real property that is located in more than one locality. The consent of the treasurer of each locality within which the property is located is required. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 50 (effective 7/1/15)

HB 1711 (Plum): Real property tax; nonjudicial sale of certain tax-delinquent property. Clarifies that the person who administers a locality's zoning ordinance, and therefore the person who makes determinations whether certain tax-delinquent real property meets the requirements for a nonjudicial sale, does not have to have "zoning administrator" as his official title. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 59 (effective 7/1/15)

HB 1721 (Ramadan): Real property tax exemption; surviving spouses of members of armed forces killed in action. Exempts from taxation the dwelling of the principal residence of a surviving spouse of a member of the armed forces of the United States killed in action. If the value of the dwelling is in excess of the average assessed value of dwellings in the locality situated on property zoned as single family residential, then the portion of the value in excess of such average assessed value shall be subject to taxation. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, which was adopted by the voters in 2014, the General Assembly previously enacted legislation exempting from taxation the principal residence of such surviving spouse only if the

assessed value of the residence was not in excess of the averaged assessed value. This bill exempts the portion of the residence below the average assessed value, regardless of the full assessed value of the dwelling. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 577 (effective 7/1/15)

HB 2161 (Minchew): State recordation taxes and fees. Clarifies and makes substantive and technical changes to state recordation taxes and fees, including requiring that the recordation tax on any deed of trust that is supplemental to an existing deed of trust be calculated only on that portion of the debt that is in addition to the original debt on which the tax has been paid. Under current law, such calculation of the recordation tax is restricted to supplemental deeds of trust with the same lender. This bill incorporates **HB 1968** and is identical to **SB 999**. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 488 (effective 7/1/15)

HB 2173 (Orrock): Real property tax; waiver of delinquent taxes. Authorizes any locality to waive delinquent taxes on real property in exchange for the owner's donation of the property to a nonprofit organization that builds, renovates, or revitalizes affordable housing for low-income families. **Status:** 03/23/15 Governor: Approved by Governor-Chapter 498 (effective 7/1/15)

SB 792 (Carrico): Taking streets into secondary state highway system. Expands the number of streets eligible to be taken into the secondary state highway system by changing the definition of "street" from including streets that were opened to public use and used by motor vehicles prior to July 1, 1992, to streets that have been open to public use and used by motor vehicles for at least 20 years. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 179 (effective 7/1/15)

SB 847 (Stanley): Interstate 73 Transportation Compact. Creates the Interstate 73 Transportation Compact to develop and plan the Interstate 73 corridor, advocate for federal and other funding resources for the project, and facilitate plans and programs for the project between the signatory states. The bill establishes the Interstate 73 Transportation Compact Commission, which shall include a seven-member delegation from Virginia, meet at least twice annually, and annually report on its activities to the Governor and the legislature of each signatory state. Such compact shall not become effective until enacted by at least one other signatory state and consented to by Congress. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 243 (effective - see bill)

SB 872 (Cosgrove): Assessment of real property; explanation of increased assessment. Requires an assessing officer of a governing body to provide, upon taxpayer request, a written explanation of or justification for an increase in the assessed value of the taxpayer's property. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 244 (effective 7/1/15)

SB 1012 (Watkins): Income tax subtraction; sale of land for open-space use. Eliminates the income tax subtraction available for the gain derived from the sale of land for open-space use for taxable years beginning on or after January 1, 2015. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 248 (effective 7/1/15)

SB 1019 (Watkins): Land preservation tax credit. Makes several changes to the land preservation tax credit by (i) reducing the maximum amount of tax credits that may be issued in each calendar year from \$100 million to \$75 million beginning in 2015; (ii) with the exception of credits issued for fee simple interest donations, reducing the maximum amount of the land preservation tax credit that may be claimed in any year from \$100,000 in taxable year 2014 to \$20,000 in taxable years 2015 and 2016 and \$50,000 for each taxable year thereafter; (iii) requiring that a complete application for the tax credit with regard to a conveyance be filed with the Department of Taxation by December 31 of the year following the calendar year of the conveyance; and (iv) prohibiting the Department of Taxation from issuing any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed. This bill is identical to **HB 1828**. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 680 (effective 7/1/15)

SB 1031 (Watkins): Real property tax exemption; certain leasehold interests. Authorizes localities to exempt from real property tax the leasehold interest in property in which the lessor is exempt from real property tax and the lessee is entitled to federal rehabilitation tax credits related to the property and uses the property for charitable, literary, scientific, cultural, or educational purposes. The bill is identical to **HB 1766**. **Status:** 03/10/15 Governor: Approved by Governor-Chapter 87 (effective 7/1/15)

SB 1451 (Lucas): Tolls on interstate highways. Requires General Assembly approval prior to tolling on Interstate 95 south of Fredericksburg, pursuant to the federal Interstate System Reconstruction or Rehabilitation Pilot Program. This bill codifies the 11th enactment of Chapter 766 of the Acts of Assembly of 2013. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 681 (effective 7/1/15)

FOIA & ETHICS REFORM

HB 1618 (Scott): Virginia Freedom of Information Act; open meeting exemption for certain public bodies. Creates an open meeting exemption for those meetings or portions of meetings of a Resource Management Plan Technical Review Committee, a Soil and Water Conservation District Board, a review committee of the Department of Conservation and Recreation, or the Virginia Soil and Water Conservation Board when such body discusses or considers records currently excluded from FOIA. The bill provides that this exemption shall not apply, however, to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information. This bill is identical to **SB 1126**. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 169 (effective 7/1/15)

SB 876 (Cosgrove): State and Local Government Conflict of Interests Act; prohibited contracts by officers and employees of hospital authorities. Clarifies that officers and employees of hospital authorities are included under the prohibited contract provisions for local officers and employees under the State and Local Government Conflict of Interests Act. The bill also lists exclusions from the general contract prohibitions that are specific to officers and employees of hospital authorities. **Status:** 03/27/15 Governor: Approved by Governor-Chapter 699 (effective 7/1/15)

SB 969 (Ruff): Virginia Freedom of Information Act (FOIA); exception to open meeting requirements. Clarifies that the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, is not a meeting under FOIA. The bill contains a technical amendment. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 131 (effective 7/1/15)

SB 1109 (Stuart): Virginia Freedom of Information Act (FOIA); open meeting exemptions; discussions relating to cybersecurity. Expands the open meeting exemption for the discussion of plans to protect public safety as it relates to terrorism and security of governmental facilities to include the discussion of specific cybersecurity threats or vulnerabilities, including the discussion of related records excluded from FOIA, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program. The bill contains an emergency clause. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 182 (effective 3/16/15)

SB 1129 (Stuart): Virginia Freedom of Information Act; record exemption for public safety; cybersecurity. Expands the current record exemption for plans and information to prevent or respond to terrorism to include information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities or security plans and measures of an entity, facility, building structure, information technology system, or software program. The bill contains an emergency clause and technical amendments. **Status:** 03/16/15 Governor: Approved by Governor-Chapter 183 (effective 3/16/15)

SB 1133 (Garrett): Prohibited conduct by state and local government officers and employees; retaliation. Prohibits a state or local government officer or employee from using his public position to retaliate or threaten retaliation against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law. The bill provides, however, that the prohibition does not (i) restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable

law or (ii) limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

Status: 03/23/15 Governor: Approved by Governor-Chapter 574 (effective 7/1/15)

MISCELLANEOUS

HB 1780 (Leftwich): Circuit court clerk responsibilities. Revises certain circuit court clerk responsibilities, including (i) permitting the posting of notices on the circuit court clerk's website; (ii) clarifying that, if a name change is granted to a convicted sex offender, the clerk entering such order shall transmit a certified copy to any agency or department of the Commonwealth that has issued a license using such person's changed name, if known to the court and identified in the court order; (iii) clarifying that the clerk of court is not required to enter partial satisfactions of each installment payment of court costs; and (iv) allowing the clerk of court to compel production of a will or require security.

HB 2229 (Minchew): Small estates; checks, drafts, and other negotiable instruments. Provides that if the successor to a decedent receives certain small assets in the form of checks, drafts, or other negotiable instruments that are payable to the decedent's estate, the successor may endorse or negotiate such checks, drafts, or other negotiable instruments.

HB 2308 (Hope): County manager plan of government; county auditor. Allows the governing body in a county with the county manager plan of government (Arlington County) to appoint a county auditor. The county auditor shall have the power to make performance reviews of operations of county agencies or county-funded programs to ascertain that sums appropriated are expended for the purposes for which such appropriations were made and to evaluate the effectiveness of those agencies and programs. **Status:** 03/17/15 Governor: Approved by Governor-Chapter 282 (effective 7/1/15)

SB 865 (Chafin): Administration of intestate estate; person convicted of fraud, misrepresentation, robbery, etc. Provides that the clerk of court shall require any person seeking to be granted the administration of an estate to sign under oath that he has not been convicted of a felony offense of (i) any fraud or misrepresentation or (ii) robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, perjury, bribery, treason, or racketeering, regardless of whether his civil rights have been restored. The bill also provides that if the person convicted of such felony offense is the sole distributee of the estate, then the court or clerk may grant administration to such person if he is otherwise suitable and competent to perform the duties of his office.

SB 1089 (Vogel): Constitutional office; filling a vacancy. Clarifies that the highest ranking deputy officer or, in the case of the office of attorney for the Commonwealth, the highest ranking full-time assistant attorney for the Commonwealth shall step in to fill a vacancy in a constitutional office until a special election to fill such a vacancy has been held, regardless of a county or city charter's alternative method for filling such a vacancy. The bill contains a technical amendment.