

2012 GENERAL ASSEMBLY HIGHLIGHTS



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Planning District Commission

P. O. Box 1505, Charlottesville, VA 22902

Representing the Local Governments of:

**Albemarle County
City of Charlottesville
Fluvanna County
Greene County
Louisa County
Nelson County**

**Joe Chesser, *Chairman*
Steve Williams, *Executive Director*
David Blount, *Legislative Liaison***

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BUDGET SUMMARY

Overview

It took the General Assembly more than five weeks from the time it convened in a special session to approve a budget. When the final vote was cast in mid-April, it caught many by surprise. The Virginia Senate approved the budget conference report for FY13/14 on a narrow 21-19 vote, with one Democratic senator joining all Republicans in voting for the plan (the House of Delegates had approved the report the previous day). The legislature also approved a handful of changes to the current, FY12 state budget. Governor Bob McDonnell proposed more than 100 amendments to the bills, which were acted on by the legislature in a mid-May session. The governor subsequently signed the FY12 budget, and at this writing, the FY13/FY14 spending plan awaits his action.

Following is an analysis of key provisions of interest to local governments as included in the approved state budget for FY13 and FY14.

Environment

- The budget directs \$87.6 million to upgrade 57 wastewater treatment plants (\$45.3 million from the Water Quality Improvement Fund (WQIF) deposit and an additional appropriation of \$42.3 million).
- It restores reductions contained in the governor's introduced plan to Soil and Water Conservation Districts (SWCD), to bring funding to \$4.5 million per year. Budget language directs the Secretary of Natural Resources to convene a stakeholder group to examine funding needs for SWCD administration, operations and technical assistance. A report is due by October 1.
- The budget provides \$1 million each year for a new Agriculture and Forestry Industries Development Fund to support new and expanding agriculture and forestry processing/value-added/manufacturing facilities using Virginia grown products; \$250,000 each year will be used to improve local economic development efforts.
- The spending plan provides an additional \$500,000 each year for the Virginia Land Conservation Foundation, increasing yearly funding for open-space preservation from \$500,000 to \$1 million.
- The budget adds \$500,000 each year for new cooperative extension agents.
- Budget language stipulates that the Department of Conservation and Recreation may use \$1 million from WQIF reserves for local stormwater assistance grants in FY13.
- The budget increases the current annual operation fee of \$2.05 per connection to \$3 for all public and private waterworks, with the additional funds used to supplant general fund support for waterworks technical assistance.
- The spending plan directs a one-time transfer of \$2.3 million in FY13 from Waste Tire Trust Fund revenue to DEQ land protection and water programs; budget language expresses the intent of the General Assembly the fee be eliminated in 2013.

Public Education

The approved budget includes \$214.7 million more for public education over the biennium than the governor's introduced plan, which had proposed an increase of \$438 million from FY12 amounts (driven largely by higher retirement, group life and health insurance rates for teachers and other school personnel). Projected FY13 state distributions for direct aid to public education for the PDC localities are as follows:

Albemarle—\$43.6 million
Charlottesville—16.14 million
Fluvanna—\$18.69 million
Greene—\$15.71 million
Louisa—\$18.03 million
Nelson—\$7.79 million

- The budget provides \$55 million each year as a one-time, block grant allocation to school divisions to assist with 1) the increase from 6.33% to 11.66% in the teacher retirement employer contribution rates funded in the budget as introduced, 2) non-personal inflation costs, and 3) any one-time costs associated with local Virginia Preschool Initiative programs. Each school division may decide how much to allocate to each of the three purposes and no local match is required. The governor's introduced budget eliminated the inflation factor in calculating the state share of the cost of non personal support items (reducing state costs by \$109 million), and also saved the state \$108 million by revising the federal revenue deduction to include a portion of federal stimulus funds, which are no longer available.
- It includes \$23.5 million each year to pay for the state share of updating the free lunch eligibility data used in the K-3 Primary Class Size Reduction program. The data is updated from base year 2008 to base year 2010. This amendment also provides additional flexibility to school divisions to increase class size ratios by three students.
- The spending plan provides \$4.1 million each year to expand Early Intervention Reading Initiative funding from 25% to 100% for eligible third-grade students.
- It includes language that any school division that was granted a waiver regarding the opening day of school for the 2011-12 school year under the good cause requirements, shall continue to be granted a waiver for the 2012-13 school year.
- The budget includes \$350,000 each year to partially restore funding for Project Discovery; the governor's introduced budget eliminated \$619,650 each year.
- It eliminates proposed funding of \$913,000 each year as a result of not supplementing PSAT testing fees for 10th graders.

Health and Human Services

- The spending plan reduces overall funding for the Comprehensive Services Act (CSA) by nearly \$40 million over the two years. The adopted budget cut \$7.3 million the first year and \$10.5 million the second year in funding set aside for the state share of supplemental requests from localities that exceed their state allocation for mandated services; this was on top of the governor's budget that reduced CSA funding by over \$22 million to reflect an anticipated reduction in caseload and related expenses.
- The spending plan restores \$2.2 million each year to partially restore funding for "wrap-around" services for children and youth with special education needs to prevent their placement in more restrictive and expensive special education settings; the governor's introduced plan proposed a \$10.8 million reduction over the two years. Language is included direct that the funding for the services is as defined in the CSA policy manual and to direct an examination by the Secretary of Health and Human Resources on the effectiveness of the services in maintaining children in the least restrictive setting.
- It requires the Office of Comprehensive Services to evaluate the impact of the changes to state and local match rates on the treatment outcomes of children and youth served by the program. Beginning in FY10, match rates were changed for residential treatment

services and community-based services to spur localities to develop appropriate community-based services in lieu of higher-cost residential services.

- It includes \$500,000 for a performance audit of CSA to identify strengths and gaps in state and local compliance procedures regarding eligibility, programming and finances.
- The budget provides \$1 million the first year and \$1.5 million the second year to address the needs of elderly Virginians who receive services through Area Agencies on Aging. This offsets the loss of federal resources due to decennial changes in federal funding, so that as a result, all agencies will receive additional state or federal funding.
- It includes \$30 million for the Behavioral Health and Developmental Services Trust Fund for expansion of community-based developmental disability services, including the addition of home and community-based waiver slots and other transitional services needed to move individuals out of state training centers.
- The budget restores Medicaid funding in both years and general funds of \$8.7 million in FY13 for indigent care services at the two state teaching hospitals (UVA and VCU).

Public Safety

- The budget requires the deposit into the Literary Fund of one-half of all fines and fees collected at the local level pursuant to the enforcement of local ordinances, which are in excess of 50% of the combined total of local and state collections. Only six jurisdictions statewide are affected (none in our region). Collections are to be deposited into the state general fund, with all local collections under the 50% threshold, plus one-half of the local collections in excess of 50% of the total, to be transferred to the affected localities on a monthly basis. The additional revenue for the Literary Fund is estimated at \$260,000 each year. Also included in this item is \$200,000 for an evaluation of the fines and fees collected by the state and localities, the factors that affect collections and any recommendations about the use of them.
- The budget maintains the FY12 level of \$172.4 million during FY13 and FY14 for localities with police departments that receive HB599 funding. This level does not meet state Code requirements that tie program funding to the overall general fund growth rate.
- Budget language is included to limit the Compensation Board's retirement reimbursement cap for constitutional officers and their employees at no more than the current rate of 2.13%, which has the effect of lowering state contributions to retirement for constitutional officers and their employees.
- The budget reduces funding by \$690,000 each year for pre-trial and community corrections grant programs.
- It reduces funding by \$1.34 million each year, bringing funding to \$10.38 million, for the Virginia Juvenile Community Crime Control Act. The money is being transferred again this biennium to help pay for a military-style residential program in Virginia Beach.
- A language amendment requires that funds from \$0.25 of the current "\$4.25 for Life" fee be used to pay for the initial basic level Emergency Medical Services (EMS) certification examination that must be completed by EMS providers (consistent with current law that requires this amount be used for costs certification and recertification training costs of EMS personnel).

Transportation

- The approved budget does not include language directing the Secretary of Transportation to conduct studies related to devolution of the secondary roadway network. It also does not direct additional sales tax revenues to the Highway Maintenance

and Operating Fund (the governor's introduced budget included a nearly \$111 million transfer). Also, budget language prohibits the use of general fund revenues dedicated for nonrecurring expenditures from being used for transportation programs.

- It exempts localities that construct and maintain their own roads from financial penalties associated with Virginia Department of Transportation local comprehensive plan review.
- It directs \$28.7 million in undesignated FY11 balances to the Virginia Transportation Infrastructure Bank, and \$28.7 million to capitalize the Intercity Passenger Rail Fund.
- The spending plan appropriates additional revenues (\$9.3 million over the two years) to be generated for road maintenance from the provision of a uniform fee structure for permits on overweight vehicles pursuant (pursuant to HB 806).
- Budget language stipulates that no transit formula assistance funding be used to support any new transit system or route at a level higher than such project would be eligible for under the current allocation formula, beyond the first two years of operation.

Miscellaneous budget provisions and budget language

- The budget includes language giving political subdivisions the option to:
 - 1) Pay the employer contribution rate for retirement certified by the Virginia Retirement System (VRS) Board of Trustees for the 2012-2014 biennium; or
 - 2) Pay the current rate certified by the VRS Board for FY11-12, or 70% of the VRS Board-certified rate for 2013-2014, whichever is higher.

Local government employers must certify to VRS by adopted resolution that they have reviewed and understand information provided by VRS that outlines potential future fiscal implications of electing or not electing to utilize the employer contribution rates certified by the VRS Board. Prior to electing to utilize the VRS-certified rates, local school boards must receive the concurrence of the local governing body.

- The approved budget adopts the governor's proposal to bring the "Aid to Localities" reduction down to \$50 million in FY13 and \$45 million in FY14 (a total of \$25 million off the current \$120 million).
- Several provisions in the approved budget address the Line of Duty Act (LODA) program. Language provides flexibility for localities opting out of the LODA program in administering their own programs. The budget directs a study group of state officials to review the current process for determining eligibility of state and local LODA recipients and the funding responsibility between the state and localities; a report is due in October. Finally, budget language also allows localities that have established trusts to fund post-employment benefits to use these trusts to pay LODA benefits.
- The plan reduces communications and sales tax funding levels to \$440 million each year, a \$20 million reduction from FY12 levels.
- The approved budget provides \$54.7 million in FY14, contingent on FY13 year-end revenue surpluses, for a two percent salary increase for 1) state classified employees on July 10, 2013, and 2) state-supported local employees on August 1, 2013. Of this amount, \$15.5 million is for the local employees, who include local constitutional officers and their full-time employees; registrars and electoral board members; and full-time employees of Community Services Boards, secure detention centers, juvenile delinquency prevention and local court service units, local social services boards, local pretrial services and community corrections employees, and local health departments.
- Budget language sets policies for state employees receiving a local salary supplement; specifically, that any such supplement paid to a state employee by a local governing body

shall be governed by a written agreement between the state agency head of the employee receiving the supplement and the chief executive officer of the locality.

- The budget includes \$132.7 million in FY13 and \$166.4 million in FY14 for deposit into the Revenue Stabilization (“Rainy Day”) Fund.
- The spending plan restores the two percent reduction (\$295,000 each year) contained in the governor’s introduced budget for state aid to libraries.
- It reduces funding for locally-elected constitutional officers by \$1.1 million in FY13 by cutting funds for local constitutional officers’ career development salary supplements.
- The plan saves the state over \$160,000 each year by eliminating additional pay supplements for certain electoral boards, and it removes funding of \$77,000 each year in the Board of Elections budget for printing and mailing absentee and voter registration applications to localities (the budget notes that the State Board will make available electronic copies of the applications for localities to print as needed).
- The spending plan eliminates \$1.25 million over the biennium for the Brownfields Restoration and Economic Development Fund, which provided grants to address environmental problems or obstacles to reusing brownfield sites.
- The budget reduces funding for the Derelict Structures Program by half, leaving \$3 million over the biennium.
- The spending plan adds \$425,000 each year to partially restore funding for the Comprehensive Health Improvement Program (CHIP); provides \$190,000 each year half of funding for Healthy Families Virginia that was reduced; and includes \$500,000 each year for Community Action Agencies to provide level funding over the biennium.
- It adds \$724,921 from the general fund and \$1 million in non-general funds each year to restore funding provided to local social services offices. Last year, \$2.9 million was provided to offset the previous annual reduction by 50%. Even with the restoration, local offices face the loss of \$3.5 million in temporary federal assistance provided through the Department of Defense to address rising food stamp caseloads.
- The budget includes \$10 million to capitalize a Housing Trust Fund, with 80% of the funds being for a revolving loan fund and 20% for grants for homeless assistance.
- The budget provides \$2 million in FY13 for Louisa County Schools for disaster relief and repair and reconstruction of school facilities damaged by the August 23 earthquake.
- It includes \$8.4 million to add the Central Virginia Regional Jail to the list of approved jail construction projects, and increases funding for the expanded project’s community corrections program (\$112,500 in FY13 and \$225,000 in FY14).
- The plan removes \$500,000 that would have partner regional organizations, higher education and other entities to develop region-specific economic development plans.
- The budget restores the nongeneral fund appropriation of \$137,000 for litter control grants; the introduced budget proposed transferring these funds to the general fund.
- The budget provides \$240,000 in FY13 for the Supreme Court to contract with the National Center for State Courts for a weighted caseload system to develop recommendations for revising Virginia’s current judicial circuit and district boundaries and for assigning judges within the new circuits and districts.
- Budget language continues the suspension of the authority of circuit courts to enter orders requiring localities to repair or replace court facilities if they are deemed out of repair.

APPROVED LEGISLATION

Local Legislative Initiatives

The General Assembly approved a handful of measures submitted by the region's legislators at the request of TJPD localities:

SB 353 (*Deeds*) authorizes the appointment of a distillery licensee for the Virginia Distillery Company in Nelson County for the purpose of allowing on-site sales (Nelson).

SB 364 (*Deeds*) allows "police-requested towing" to be initiated by uniformed employees authorized by the local police department (Charlottesville).

HJR 291(*Toscano*) commends the City of Charlottesville on its 250th anniversary in 2012.

Following are highlights of approved legislation in the areas of the environment, finance, human services, land use, local government, public safety and transportation. Approved studies and resolutions also are summarized.

Environment

HB 176 (*Knight*) and **SB 77** (*Watkins*) direct the Soil and Water Conservation Board to adopt regulations governing the certification of certain nutrient credits.

HB 766 (*Landes*) and **SB 128** (*Stanley*) create the Governor's Agriculture and Forestry Industries Development Fund, a grant and loan program with awards to be made to support local efforts to attract value-added or processing facilities using Virginia-grown products.

HB 932 (*Lingamfelter*) directs the Department of Conservation and Recreation to expand the voluntary nutrient management program to assist owners and operators of agricultural land and turf to effectively manage and apply nutrients to their land.

HB 1065 (*Sherwood*) and **SB 407** (*Hanger*) integrate elements of the Erosion and Sediment Control Act, the Stormwater Act, and Chesapeake Bay Preservation Act, so that these regulatory programs can be implemented in a consolidated and consistent manner. The bills also eliminate the Chesapeake Bay Local Assistance Board and place its responsibilities with the Virginia Soil and Water Conservation Board. Finally, they include a requirement that all localities adopt a stormwater management program by July 1, 2014.

HB 1210 (*Lingamfelter*) stipulates that lawn maintenance fertilizer must contain only nitrogen that is "slow or controlled release" as of July 1, 2014.

SB 504 (*Wagner*) allows operators of facilities with air quality, solid waste or water quality permits to install new technology, equipment or other apparatus at their facility without having to obtain a new or amended permit, as long as they can demonstrate that the new technology will result in increased energy efficiency and improved environmental conditions.

SB 676 (*Garrett*) requires solid waste planning units or localities over 100,000 population to submit a recycling report annually. It requires those with 100,000 or under to submit the report once every four years; currently, reports must be submitted annually.

Finance

HB 41 (*Tata*) provides that the situs of a motor vehicle used, rather than owned, by a full-time student attending an institution of higher education is the domicile of the owner of the motor vehicle.

HB 80 (*Orrock*) requires the local assessing official to consider separately assessing the fair market value of wetlands on real property, if requested by the property owner.

HB 246 (*Cline*) prohibits any General Assembly committee from approving a new state tax credit or renewing an existing one, unless such bill contains an expiration date of no longer than five years from the effective date of the new or renewed tax credit.

HB 277 (*Peace*) and **SB 394** (*Hanger*) provide that any tax stamp or meter impression used to evidence the payment of a local cigarette tax must be of the same stamp technology used or required by the state for the state cigarette tax stamp. The bill takes effect January 1, 2013.

HB 298 (*E.T. Scott*) creates as a separate class of property, machinery and tools used to clean motor vehicles by a motor vehicle cleaning business, for rate purposes.

HB 408 (*Watts*) relaxes the formula for computing annual income and net worth for purposes of determining whether elderly or disabled taxpayers qualify for real property tax relief.

HB 743 (*Fariss*) allows localities to exempt, partially exempt or set a lower tax rate for motor vehicles used exclusively for farming.

HB 842 (*James*) and **SB 308** (*Blevins*) permit localities to condition issuance to a property owner of a local business license or land use authorization, on payment of certain delinquent taxes, fees or other charges owed by the applicant.

HB 959 (*R.B. Bell*) and **SB 40** (*Reeves*) clarify that the sales and use tax is not applicable to any company that is owned, operated or controlled by any county, city or town and provides public transportation services (affects JAUNT).

HB 1073 (*Hugo*) and **SB 73** (*Watkins*) require that, in any appeal to an equalization board (on the value of residential apartments in excess of four units), the board use income approach to valuation (actual gross income generated and actual operating expenses and expenditures).

HB 1128 (*Johnson*) modifies the procedures that govern the judicial sale of real property on which delinquent property taxes are owed.

HB 1148 (*Dudenhefer*) and **SB 534** (*Stuart*) allow motor vehicles owned by volunteer deputy sheriffs to be classified as a separate class of tangible personal property for local taxation purposes for tax years beginning on or after January 1, 2013.

SB 409 (*Hanger*) equalizes the recordation tax rate for all refinanced deeds of trust by establishing a maximum recordation tax rate of 18 cents per \$100 on such deeds, regardless of whether the loan is refinanced with the same or a different lender.

SB 551 (*Puller*) clarifies, for purposes of providing a discount for early payment of any local tax, that “early payment” may include payment of real property taxes in full on or before the due date.

SB 597 (*Wagner*) is the so-called “Amazon.com” bill that creates a legal presumption to require dealer registration for collection of retail sales and use taxes if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office or similar location within the state that facilitates the delivery of property sold by the dealer to its customers. The effective date depends on whether federal legislation passes authorizing states to require remote sellers to collect sales taxes on sales to in-state purchasers, and the effective date of such legislation.

SB 614 (*Edwards*) requires the state to make adjustments over the next two months’ distribution (rather than over the current six months) of sales tax revenues to a locality after it is discovered that an error in payment was made.

Bills Related to the Tax Exemption for Disabled Veterans

HB 190 (*O’Bannon*) directs the Department of Veterans Services to promulgate rules governing administration and implementation of the real property tax exemption for disabled veterans.

HB 922 (*Lingamfelter*) and **SB 540** (*Puller*) make clarifying changes to the exemption to address situations where real property is held in trust.

HB 933 (*Lingamfelter*) stipulates that the exemption for qualifying property acquired after January 1, 2011, shall begin on the date the property is acquired.

SB 22 (*Stuart*) stipulates that the exemption for veterans rated as having a 100% disability after January 1, 2011 shall begin on the date of such rating.

Human Services

HB 79 (*Orrock*) directs the Virginia Disability Commission to establish work groups to assist it in carrying out its powers and duties. Such work groups shall include those focused on (i) housing and transportation, (ii) education and employment, and (iii) publicly funded services. The bill also directs the Secretary of Health and Human Services to convene a workgroup to develop a plan to improve access to housing and transportation for people with disabilities.

HB 135 (*Kilgore*) and **SB 396** (*Hanger*) add two local government representatives, chosen from the members of a county board of supervisors or a city council and a county administrator or city manager, to the State Executive Council for Comprehensive Services for At-Risk Youth and Families, increasing the number of local government representatives from three to five.

HB 744 (*Fariss*) and **SB 366** (*Deeds*) allow a parent, in situations where a custodial parent identifies an urgent need for assistance or relief and in cooperation with the receiving children's residential facility, to place a child prior to final approval of the placement pursuant to the Interstate Compact on the Placement of Children, when the placement is made without the involvement of a public officer or agency.

Social Services

HB 500 (*Dance*) requires local social services departments to conduct annual credit checks on children aged 16 and older who are in foster care, in order to identify cases of identity theft or misuse of personal identifying information, and to resolve any such cases identified.

HB 775 (*Landes*) requires local social services departments to collect accurate contact information from each applicant for public assistance, which shall include the best available address and telephone number of the applicant.

HB 997 (*Ransome*) requires local social services departments to provide applicants for public assistance with information regarding all rights and responsibilities of the applicant related to eligibility for and continued receipt of public assistance, and to require the applicant to acknowledge that such information has been provided.

Land Use

HB 81 (*Orrock*) provides that prior, discontinued use of any property shall not be considered in determining its current use for land use valuation purposes.

HB 166 (*Cosgrove*) stipulates that a written decision by a zoning administrator containing a nondiscretionary error (e.g., incorrect use determination) cannot be modified after 60 days.

HB 170 (*Cosgrove*) provides that in instances in which zoning administrator decisions are reviewed by the governing body, the governing body's decision is appealable to the circuit court.

HB 316 (*Ingram*) and **SB 430** (*Ruff*) provide that cemetery buildings, including mausoleums, crypts and administrative buildings, will not be subject to additional local legislative decisions such as a special use permit, if the building or other structure was shown in a legislative approval for a specific cemetery obtained at the request of the owner; the bills take effect January 1, 2013.

HB 326 (*Massie*) and **SB 36** (*Black*) provide that a landowner subject to certain proffered conditions may apply to the governing body for amendments to or variations of such conditions.

HB 327 (*Peace*) allows a locality to require that certain structures within a historic district not be demolished until approved by the review board or, on appeal, the governing body (unless the building constitutes a hazard).

HB 471 (*Albo*) and **SB 398** (*Hanger*) require all outdoor advertising of alcoholic beverages to comply with ABC laws and regulations, and VDOT law and regulations concerning outdoor advertising, while preserving local authorities in this area; these bills took effect April 18, 2012.

HB 526 (*Cosgrove*) provides that no local zoning ordinance shall ban departures and landings by noncommercial helicopters for personal use; however, a locality may require a special permit under certain circumstances.

HB 571 (*D. W. Marshall*) extends to July 1, 2017, the sunset date for (i) any subdivision plat, recorded plat or final site plan; (ii) certain special exceptions, special use permits or conditional use permits; and (iii) certain proffers that were valid and outstanding as of Jan. 1, 2011. All

extensions require that any performance bonds or other financial guarantees for the completion of public improvements be continued for the period of the extension.

HB 732 (*Dudenhefer*) provides that a transfer of development rights ordinance may permit a sending property to be used for parks and campgrounds.

HB 869 (*Rust*) and **SB 274** (*Smith*) make designation of urban development areas optional for all localities.

HB 910 (*Minchew*) allows a cash proffer to be used for an alternative purpose if the functional purpose for which the original cash payment was made no longer exists.

HB 975 (*R.B. Bell*) and **SB 653** (*Newman*) amend condemnation statutes to provide that lands may be condemned for certain specified uses related to sanitary sewer, water and stormwater facilities, or transportation facilities, and installation of electric utility lines or telephone lines.

HB 1059 (*Anderson*) delays the imposition of penalty by the court for a violation until the appeal period of the Board of Zoning Appeals decision has expired.

HB 1137 (*D.W. Marshall*) requires that for local historic district designation, a locality must set criteria for designation; inventory landmarks, buildings and structures within a proposed district; and allow public input.

HB 1216 (*R.P. Bell*) provides that when a proposed amendment to the zoning ordinance involves a tract of land of not less than 500 acres owned by the state or federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties adjacent to the affected area of the larger tract.

HB 1231 (*Orrock*) clarifies that if a licensed professional engineer or onsite soil evaluator does not inspect an onsite sewage system, the evaluation and design of which he certified, at the time of installation, the owner may petition the Department of Health to inspect the installation.

HB 1253 (*Knigh*) prohibits any locality from accepting certain proffers purporting to contain a waiver of legal rights against the locality.

HB 1262 (*Poindexter*) and **SB 662** (*Smith*) exempt conventional sewage system installers from having to pass an examination to be licensed, provided they have performed the duties of an installer for at least eight years within the 12-year period. The bills also require applicable regulations to divide sewage system installers into classes, one of which shall be restricted to installation of conventional onsite sewage systems; this act expires July 1, 2016.

HB 1269 (*Fariss*) provides that if votes of a local board of zoning appeals result in a tie vote, the person filing an appeal may have the matter carried over until the next meeting.

HB 1287 (*Minchew*) provides that for planning, zoning and subdivision purposes, the term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

SB 179 (*Stuart*) provides that if the owner or developer defaults on construction of certain public facilities, the locality shall be entitled to retain the allowance for administrative costs.

Local Government

HB 141 (*Cole*) provides an exemption from the mandatory disclosure provisions of the Freedom of Information Act (FOIA) for certain identifying information in correspondence between an individual and a member of a local public body, unless the correspondence relates to the transaction of public business.

HB 375 (*Pogge*) prohibits localities from adopting any workplace rule, other than for a community services board or a behavioral health authority, which prevents an employee from storing at that locality's workplace, a lawfully possessed firearm and ammunition in a locked personal, private motor vehicle.

HB 455 (*R.L. Ware*) and **SB 495** (*Watkins*) move distribution of a portion of Wireless E911 funds from the E911 Board to the Department of Taxation, and from being based on cost and call load data from one or more of the previous fiscal years, to being based on five fiscal years.

HB 480 (*Albo*) allows a member of a public body to attend a closed meeting held by any of its committees or subcommittees, provided such member does not participate in any discussions held by the body conducting the closed meeting. The bill requires that the minutes include the identity of such member who attended the closed meeting.

HB 491 (*Dance*) and **SB 122** (*Watkins*) authorize a locality to serve as a receiver, appointed by the circuit court, to repair blighted and derelict buildings. Buildings must previously have been determined to be blighted under current spot blight provisions.

HB 567 (*D. W. Marshall*) authorizes (i) a property owner who is the occupant or where a single meter serves multiple units, or (ii) a lessee or tenant, provided he has written authorization from the owner, to establish water and sewer services in his own name. The bill provides for a locality or water authority to require a deposit of not more than five months of water and sewer charges; a lien may be placed on the property under certain circumstances when charges are delinquent.

HB 658 (*Toscano*) and **SB 367** (*Deeds*) stipulate that there is no personal interest in a transaction where an officer or employee of a local governing body is appointed by the body to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is a result of the salary, other compensation, fringe or other benefits provided by the local governing body to the officer or employee.

HB 809 (*May*) and **SB 235** (*Herring*) add employees of political subdivisions working in close cooperation with a locality to the list of employees who may receive insurance from a locality.

HB 837 (*Hope*) clarifies that local salary supplements may be paid to clerks and other local district court employees, except district court and substitute judges, wholly out of local funds.

HB 865 (*Rust*) and **SB 231** (*Herring*) disallow counties, cities and towns from reducing the number of taxicabs that are permitted or authorized under local ordinance, except for non-use or cause as defined by the ordinance.

HB 896 (*Albo*) removes current limitations on Sunday opening of ABC stores and authorizes the ABC Board to determine which stores shall be open on Sunday after 1 pm.

HB 1076 (*Hugo*) allows a locality to require a special use permit for storing and disposing of nonagricultural excavation material, waste and debris if such items are not generated on the farm.

HB 1286 (*Dudenhefer*) directs utility companies, franchised cable operators and localities to cooperate and coordinate in the relocation of utilities and cable lines as may be appropriate to avoid unnecessary delays in construction of public facilities and projects by the affected locality.

HB 1294 (*Spruill*) prohibits localities from charging any fee, other than fire prevention inspection fees, to any church, synagogue or other place of worship unless authorized by general law or special act.

HB 1295 (*Byron*) and **SB 679** (*Newman*) are the omnibus mandates relief bills containing recommendations of the Governor's Task Force on Local Mandate Review. The approved bills eliminate/relieve several statewide mandates on local and regional government entities; these include the following:

- 1) removing the requirement that surplus property be offered to political subdivisions or volunteer fire and rescue squads before being sold at a public sale or auction;
- 2) raising the ceiling for professional service contracts that a locality may enter without competitive negotiation from \$50,000 to \$60,000;
- 3) removing the requirement for localities to obtain VDOT approval for red light camera locations;
- 4) clarifying that the local courts cannot require localities to construct new court facilities;
- 5) eliminating requirements for reporting Urban Development Areas to the Commission on Local Government;
- 6) removing annual contract requirements for community service boards;
- 7) eliminating Internet policy mandates on local libraries;
- 8) changing the requirement to give first priority for vending contracts to the blind from mandatory to a local option;
- 9) repealing the requirement for civics training for teacher license renewal;

- 10) eliminating the requirement that all proceeds from the sale of school property go toward capital improvements; and
- 11) eliminating the requirement that school divisions annually report to parents the cost per pupil across the school division.

SB 560 (*Stuart*) authorizes a board of supervisors to construct and maintain dams within a sanitary district; the bill took effect March 30, 2012.

SB 594 (*Favola*) allows counties and cities to acquire land within their boundaries for development of business or industry by voluntary sale, but not by condemnation; current law allows such land acquisition only by towns.

Public Safety

HB 185 (*Gilbert*) provides that when a state law-enforcement officer makes an arrest or issues a summons for a state Code violation, the person arrested or summoned must be charged with a violation of that Code provision and not with a substantially similar local ordinance.

HB 187 (*Gilbert*) prohibits the establishment of "motorcycle only" police check-points.

HB 273 (*Peace*) and **SB 293** (*Lucas*) require the Department of Criminal Justice Services (DCJS) to provide compulsory minimum, entry-level training standards for juvenile correctional officers.

HB 288 (*Sherwood*) provides an exception for city and county treasurers from the prohibition against carrying a weapon into courthouses.

HB 352 (*J.A. Cox*) requires emergency management plans of political subdivisions and school boards to include DCJS and the Virginia Criminal Injuries Compensation Fund as the lead coordinating agencies for individuals found to be victims during critical events and emergencies.

HB 754 (*Cline*) removes local authority to require an applicant for a concealed handgun permit to submit to fingerprinting in order to obtain the applicant's state or national criminal history record.

HB 965 (*R.B. Bell*) and **SB 302** (*Howell*) require campus police to enter into mutual aid agreements with an adjacent law-enforcement agency or State Police for cooperation in providing assistance when investigating deaths and alleged rapes occurring on college campuses.

HB 1237 (*E.T. Scott*) and **SB 239** (*Stuart*) add individuals 18 years of age or older who are associated with or employed by any public organization responsible for the care, custody or control of children, to the list of individuals required to report suspected child abuse or neglect.

SB 541 (*Obenshain*) requires DCJS to establish training standards for all auxiliary police officers employed by or in any local or state government agency; officers have until one year after promulgation of such standards to meet the requirements; the bill took effect April 18, 2012.

Transportation

HB 34 (*Albo*) allows the Highway Commissioner to enter into agreements with local governments to allow them to enforce provisions prohibiting advertising within the highway right-of-way and to collect associated penalties and costs, revenue from which will be deposited into the Highway Maintenance and Operating Fund.

HB 93 (*Albo*) increases the minimum amount of vehicle liability insurance required to be carried by public schools in instances of property damage, medical expense payment coverage and injury accidents. Vehicle liability and property damage insurance coverage for public school transportation vehicles increases from \$200,000 to \$500,000 for injury under the bill.

HB 289 (*Sherwood*) and **SB 454** (*Vogel*) allow localities to grant four hours free parking in designated areas within the locality to vehicles exhibiting disabled parking placards.

HB 626 (*LeMunyon*) allows governing bodies, at their own expense, to evaluate noise from highways it may designate for analysis. Such evaluation shall be accepted and relied upon by VDOT if prepared according to applicable law and any state guidelines or policies.

HB 800 (*Webert*) allows any county to adopt an ordinance that the speed limit on nonsurface-treated (gravel) roads be 35 MPH.

HB 806 (*May*) equalizes the fee structure for overweight vehicle permits, effective January 1, 2013; currently, codified fee amounts vary by vehicle type. Funding generated is to be deposited into the Highway Maintenance and Operating Fund (approx. \$4.5 million/year).

HB 914 (*Minchew*) allows localities to enter into an agreement with the Highways Commissioner to install "Children at Play" signs on highways within their boundaries, with the cost of such signs and installation to be borne by the locality.

HB 1164 (*Bulova*) directs the Secretary of Transportation to review, every four years, the approval process for road maintenance and adopt policies and procedures to reduce review redundancy and to allow approval at the district office level to the maximum extent practical.

HB 1248 (*Lingamfelter*) and **SB 639** (*Wagner*) are the omnibus transportation bills that include the following provisions:

- They stipulate that \$500 million "off the top" of the transportation fund will be used for bridges (25%), high priority projects (25%), pavement reconstruction on interstates and primary roads (25%), PPTA projects (15%), unpaved roads (5%) and smart road technology (5%).
- In the area of comprehensive planning, they provide that 1) updates to the local transportation plan must be consistent with the state's six-year plan as it pertains to new, expanded or relocated roadways; 2) localities must submit proposed transportation plans to VDOT for review and comment (and later, submit adopted plans); and 3) if conflicts between a local (or a regional) plan and the state plan exist, the Commonwealth Transportation Board (CTB) may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law.
- They revise the revenue sharing program to 1) include local managed maintenance projects (capped at \$5 million); 2) give second priority (after the current priority for accelerating six-year plan projects) to pavement resurfacing and bridge repair; and 3) reduce from two years to one the time a locality has to begin spending matching funds.
- They authorize the CTB to name transportation facilities for private entities if an annual naming rights fee is paid; this revenue would be dedicated to highway maintenance.
- No devolution language and no redirection of the sales tax or future general fund surpluses to transportation are included in the bill.

SB 230 (*Herring*) requires VDOT to provide training and certification for local governments to enable them to administer locally-performed highway maintenance and construction projects with minimal VDOT supervision.

SB 530 (*Marsden*) requires institutions of higher education to hold at least one public hearing before VDOT undertakes any safety-related or congestion management-related highway project requested by such institution.

Miscellaneous

Virginia Retirement System (VRS) Bills

HB 438 (*Tata*) allows eligible employees (those with at least 5 years of service in a hazardous duty position) to retain hazardous duty benefits if they accept alternative work.

HB 792 (*Tata*) permits localities that choose to allow employees to participate in a deferred compensation plan to require new employees to join the plan on an opt-out basis.

HB 1130 (*W. J. Howell*) and **SB 498** (*Watkins*) revise the VRS to lessen benefits for VRS Plan 1 members who are not vested (less than five years of service) and Plan 2 members (hired after July 1, 2010), in the areas of Average Final Compensation, Cost of Living Adjustment (effective date affects vested employees) and the retirement formula multiplier; it creates a hybrid plan for all new employees (as of January 2014) and sets state retirement contribution rate goals through 2020. The bill also creates a disability program for local employees participating in the hybrid plan; that is, localities are required to participate in the program to be established by VRS or to offer comparable benefits through some other means.

SB 171 (*Peterson*) allows a political subdivision to make an irrevocable election to treat firefighters, emergency medical technicians, or law-enforcement officers hired on or after July 1, 2010 (Plan 2 employees), as Plan 1 employees with regard to age and service provisions.

SB 497 (*Watkins*) requires local government and school employees to pay the five percent member contribution to VRS and local government and school employers to provide a corresponding five percent pay increase. Employers are authorized to 1) phase-in the employee contribution for current employees over a maximum of five years (employees hired or rehired after July 1, would pay the 5% contribution immediately); and 2) require employees to pay more than one percent per year. Employers cannot pay any portion of employee contribution, except the difference between 5% and the employee contribution during the phase-in period.

HB 329 (*Villanueva*) exempts personal information systems maintained by auditors appointed by a local governing body or school board that deals with local investigations, from the Government Data Collection and Dissemination Practices Act.

HB 430 (*Bulova*) expands the scope of the Regional Cooperation Incentive Fund to foster inter-local service delivery consolidation or coordination where such consolidation or coordination will result in the more efficient use of local funds.

HB 537 (*Orrock*) and **SB 305** (*Blevins*) change the procedure by which dangerous dogs are registered in Virginia.

HB 573 (*D.W. Marshall*) provides that whenever a police officer, firefighter or emergency medical services provider who is a Virginia resident and who is killed in the line of duty, state and local flags flown at any state building shall be flown at half-staff for one day in their honor.

HB 623 (*Cole*) and **SB 566** (*Martin*) provide for various administrative efficiencies for voter registrars, including permitting registrars to administer oath to voting equipment custodians; clarifying methods to give notice of change in location of general registrar's office; modernizing procedures to give public notice of registration times and primaries; and allowing absentee ballot envelopes to be opened before election day if they are placed in a secure ballot container.

HB 745 (*Cline*) requires the Supreme Court to implement a weighted caseload system to assess judicial caseloads throughout the state, and using that system, to determine the need for and optimal distribution of judicial positions and to prepare a recommended plan for the realignment of the circuit and district boundaries.

HB 1111 (*Greason*) provides that the costs for enforcement and appeals of the Statewide Fire Prevention Code and the Uniform Building Code may include fair and reasonable costs incurred for such enforcement during normal business hours, but shall not include overtime costs, unless conducted outside of normal working hours established by the localities. The bill also permits localities to allow a tenant of a property whose owner has unpaid taxes to get a building permit.

HB 1117 (*Greason*) provides that the temporary restrictions on granting city charters, filing annexation notices and instituting annexation proceedings and county immunity proceedings be extended for the 2012-2014 biennium.

HB 1202 (*Johnson*) and **SB 140** (*Puckett*) require fire insurance policies to provide coverage, with limits not less than \$250, for the cost charged by a volunteer fire department that is not fully funded by property taxes, in certain instances when the fire department is called in to save or protect property insured under the policy.

HB 1291 (*Gilbert*) and **SB 678** (*McDougle*) reorganize the executive branch of state government by eliminating boards, commissions and agencies to increase efficiency and save money.

SB 193 (*J.C. Miller*) provides an exemption from mandatory disclosure under FOIA for records of a fire/EMS company or fire/EMS department, to the extent that they disclose the telephone numbers for cellular telephones, pagers or portable communication devices provided to its personnel for use in the performance of their official duties.

Constitutional Amendments

HJR 3 (*R.B. Bell*) and **SJR 3** (*Obenshain*) propose to amend the Virginia Constitution to state that no law can allow property to be taken except for public use; in which case, just compensation is required, including for the property's "lost profits and lost access." The proposed amendment will be on the November election ballot and if approved, will take effect January 1, 2013.

HB 5 (*R.B. Bell*) and **SB 240** (*Obenshain*) are the bills that provide for the proposed Constitutional amendment (noted above) to be placed on the ballot.

HB 1035 (*Joannou*) and **SB 437** (*Obenshain*) define "lost profits" and "lost access" for purposes of the proposed Constitutional amendment. Lost profits include loss of business profits, subject to adjustment using generally accepted accounting principles, from a business or farm operation for a period not to exceed three years from the date of valuation that is suffered as a result of a taking of the property. Lost access includes material impairment of direct access to property.

HJR 138 (*Englin*) proposes to amend the Virginia Constitution to allow the General Assembly to delay the reconvened session for a period of up to one week. The Constitution now provides that the reconvened session be held on the sixth Wednesday after adjournment of a regular or special session. The proposed amendment would allow the legislature to postpone the reconvened session for a brief period, for example, to avoid convening on a religious holiday. The proposed amendment will be on the November election ballot and if approved, will take effect January 1, 2013.

HB 1021 (*Englin*) is the bill to provide for the proposed Constitutional amendment (noted above) to be placed on the ballot.

STUDIES AND RESOLUTIONS

HB 777 (*Landes*) establishes a Joint Subcommittee to Evaluate Tax Preferences to oversee the evaluation of Virginia's tax preferences, including tax credits, deductions, subtractions, exemptions and exclusions. The subcommittee is charged with, among other things, adopting a schedule for reviewing preferences by program area; establishing performance measures to evaluate effectiveness; requesting that the Department of Taxation evaluate preferences in promoting economic activity, generating revenue, or otherwise meeting a purpose; and recommending processes/guidelines for establishing expiration dates for preferences.

HJR 85 (*Purkey*) establishes a joint subcommittee of the House Appropriations and Senate Finance Committees to evaluate the effect on increased economic activity of income and other tax credits.

HJR 93 (*D.W. Marshall*) designates the first week in April, in 2012 and in each succeeding year, as Local Government Education Week in Virginia.

HJR 132 (*Lingamfelter*) directs the Joint Legislative Audit and Review Commission to study planning and preparedness efforts regarding homeland security and emergency management, including whether there is effective integration of planning between states and localities and coordination of programs or activities that require federal, state and local interagency cooperation.

HJR 243 (*Byron*) requests the Department of Environmental Quality (DEQ) to study the benefits and costs of seeking authority from the U.S. Environmental Protection Agency (EPA) to administer the § 404 permitting program under the Clean Water Act. In conducting the study, the DEQ shall determine whether there are appropriate exemptions for small impoundments and an appropriate mitigation ratio for ponds and streams. The DEQ shall convene a representative group of stakeholders to assist making its determination.