

2014 GENERAL ASSEMBLY SUMMARY



*Thomas
Jefferson*

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**

**Allen Hale, *Chairman*
Chip Boyles, *Executive Director*
David Blount, *Legislative Liaison***

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OVERVIEW

The 2014 General Assembly adjourned March 8, but with an agreement on a new state spending plan for FY15 and FY16 remaining elusive, the legislature convened in a special session about two weeks later. The House and Senate were able to finalize changes to the so-called “caboose” budget bill that makes adjustments in state revenues and spending for the remainder of FY14 and Governor McAuliffe signed the measure on April 1. However, at this writing, there still is no approved budget for the next biennium, due to House and Senate leaders remaining deadlocked over closing the health care coverage gap. Thus, this summary highlights only actions taken on legislative bills during the regular legislative session.

APPROVED LEGISLATION

Local Legislative Initiatives

The General Assembly approved a handful of measures of interest to or submitted at the request of TJPD localities:

HB 199 (*Landes*) adds the Tax Department and Department of Planning and Budget to those entities authorized to refer bills for local fiscal impact analysis to the Commission on Local Government, and also includes certain study resolutions (those examining local revenues or expenditures) in the referral process.

HB 1144 (*R.B. Bell*) allows Greene County to designate private roads in residential developments with 25 or more lots as highways for law-enforcement purposes.

SB 10 (*Garrett*) allows the Town of Louisa to provide discounted water and sewer fees and charges for low-income and disabled customers.

SB 257 (*Deeds*) designates a 12.7-mile segment of the Tye River in Nelson County as a component of the Virginia Scenic Rivers System.

SB 582 (*Garrett*) directs the Department of Conservation and Recreation (DCR), by December 15, to utilize a storm-based approach to determine Probable Maximum Precipitation (PMP). The PMP is used to determine whether a dam is rated as high hazard, thus requiring spillway renovations to account for potential loss of life/property. By updating the PMP, it is anticipated that dam owners will see significant cost savings in spillway construction and remediation efforts. Under the bill, no dam renovations will be required until after the analysis is completed. In addition, the chairman of the Senate Agriculture Committee will write a letter to DCR requesting it develop a funding plan for addressing rehabilitation of high hazard dams (also **HB 1006**).

Following are highlights of approved legislation in the areas of the environment, finance, human services, land use, local government, public safety and transportation. Bills take effect July 1, unless otherwise noted. Approved studies and resolutions also are listed.

Environment

HB 445 (*Bulova*) establishes minimum procedural requirements for the adoption of all waste load allocations, including public notice, public comment opportunity, a stakeholder advisory group process, agency response to comments and a public meeting.

HB 1034 (*Orrock*) and **SB 466** (*Watkins*) protect owners of land upon which dams that are owned, maintained or operated by soil and water conservation districts are situated from liability for injury or damages to others or their property resulting from the failure of the dam.

HB 1173 (*Hodges*) and **SB 423** (*Hanger*) allow non-MS4 localities to opt out of having to establish a local stormwater program and to have the Department of Environmental Quality establish and implement a program. The bills provide for the following provisions: 1) reciprocity with other states regarding best management practices; 2) approval of a program with a common plan of development conveys to the individual parcels; 3) submission of an agreement in lieu of a permit where land-disturbing activity results from the construction of a single-family residence. The bills took effect in March and April, respectively.

HB 1217 (*Morris*) provides that any locality in a Chesapeake Bay preservation area allowing owners of certain on-site sewage treatment systems to submit documentation in lieu of proof of septic tank pump-out, shall require that such documentation be certified by a licensed or certified on-site sewage system operator or soil evaluator.

SB 657 (*Black*) directs the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals to extend one time and deem to be valid, interim licenses as an alternative onsite sewage system installer held by an individual at such time as the individual applies to take the examination required for license issuance.

Finance

HB 44 (*Cole*) creates as a separate class of property, motor vehicles owned or leased by a uniformed member of the Virginia Defense Force and used to respond to his official duties, for rate purposes, provided that the person is obligated by the lease to pay the vehicle's personal property tax.

HB 46 (*Ramadan*) provides for the proposed Constitutional amendment as stipulated in **HJR 8** to be placed on the ballot at the November 4, 2014, election. HJR 8 allows the General Assembly to exempt from taxation the real property of the surviving spouse of a soldier killed in action, where the surviving spouse occupies the real property as his or her principal place of residence and has not remarried. If the referendum is approved, the exemption to the surviving spouse will take effect for tax years beginning on or after January 1, 2015.

HB 54 (*Hodges*) and **SB 432** (*McDougle*) increase the cap from \$400 to \$750 on the fair market value that the owner of livestock that has been killed or injured by dogs or hybrid canines is entitled to receive as compensation.

HB 156 (*Minchew*) and **SB 175** (*Black*) specify that the real property tax exemption for churches and religious bodies includes 1) property used primarily for outdoor worship activities; 2) property used for ancillary and accessory purpose, the dominant purpose of which is to support or augment the principal religious worship use; and 3) property used as required by federal, state or local law.

HB 283 (*Albo*) authorizes the Alcoholic Beverage Control Board to suspend or revoke the license of a licensee who is delinquent for 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located.

HB 477 (*Villanueva*) allows counties and cities to assess a fee not to exceed \$5 as part of the costs in each criminal or traffic case in district or circuit court, to be used for implementing and maintaining an electronic summons system.

HB 497 (*Head*) permits a taxpayer to appeal to the Tax Commissioner or request a written ruling from him regarding the classification of a business for BPOL tax purposes, regardless of whether the locality has conducted an audit, issued an assessment or taken any other action. It also requires a locality imposing the BPOL tax to maintain on its website the specific procedures that must be followed regarding an administrative appeal of the BPOL tax classification.

HB 499 (*Yost*) reduces the number of years of delinquency in payment of taxes from five years to three years before a locality may sell real property that (i) is less than 4,000 square feet or (ii) is determined to be unsuitable for building.

HB 525 (*Pogge*) and **SB 480** (*Norment*) require that additional information be included in a notice of a change in assessment or reassessment for real property taxes issued by localities.

HB 589 (*Davis*) provides that the personal property tax exemption for household goods includes property primarily used for household purposes, including electronic devices such as cell phones, tablets and personal computers.

HB 617 (*Davis*) authorizes a locality to establish lower personal property tax rates on the tangible property of businesses that locate for the first time in the locality, applicable to the first two tax years.

HB 1000 (*Minchew*) provides that the real property tax exemption for the sole dwelling of the elderly and disabled includes dwellings held by certain trusts. The bill also provides that if a locality establishes income restrictions for the exemption, then it shall exclude the income of relatives or non-relative caregivers.

HB 1051 (*Knight*) and **SB 124** (*Lucas*) require that if a Constitutional officer budget is proposed to be reduced more than other local agencies, the local governing body shall notify the office 14 days in advance and allow such officer seven days to respond. The local governing body shall consider any written objection from a constitutional officer. The bills also include electronic and other systems among those items a local government shall provide to court clerks offices.

HB 1099 (*Farrell*) exempts nonprofit entities from collecting meals tax or food and beverage tax on the first \$100,000 of otherwise taxable fundraising sales.

HB 1239 (*Hugo*) and **SB 418** (*Hanger*) provide an exemption from local taxation for solar energy equipment, facilities and devices owned or operated by a business that collect, generate, transfer or store thermal or electric energy.

SB 100 (*Ruff*) imposes the state sales tax on separately-stated charges for equipment available for lease or purchase by a provider of satellite television programming to a customer of such programming.

SB 549 (*Puckett*) authorizes a locality to make gifts and donations to any nonprofit tax-exempt organization engaged in providing emergency relief to residents, including providing the repair or replacement of private property damaged or destroyed by a natural disaster.

SB 563 (*Stosch*) increases by \$500,000 in each of the next two fiscal years the amount of tax credits that may be issued under the Neighborhood Assistance Act Tax Credit program for donations supporting education and other programs.

SB 596 (*Marsden*) imposes a state license tax of \$350 and a local license tax of \$250 for breweries that manufacture no more than 500 barrels of beer during the licensing year; currently, a local license tax of \$1,000 may be imposed on all breweries, and will remain at that amount for those manufacturing more than 500 barrels per year.

Human Services

HB 478 (*Villanueva*) extends the time that a person may be held pursuant to an emergency custody order from four hours, with a possible two-hour extension, to eight hours. The bill also requires law-enforcement, when taking the person into custody, to notify the local community services board (CSB) as soon as practicable after the person is taken into custody. It directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and to make recommendations to reduce the burden on law enforcement resources.

HB 522 (*R.P. Bell*) requires community policy and management teams to establish policies and procedures for appeals by youth and their families of decisions made by local family assessment and planning teams about services to be provided to the youth and family pursuant to an individual family services plan.

HB 668 (*Brink*) and **SB 134** (*Favola*) require local social services departments to provide independent living services to individuals between 18 and 21 years old who are transitioning out of a Department of Juvenile Justice commitment.

HB 683 (*Herring*) requires local departments of social services and local school divisions to develop written interagency agreements for the investigation of all complaints of child abuse or neglect; currently, they must enter into written interagency agreements for investigation of such complaints involving school personnel only.

HB 1216 (*R.P. Bell*) and **SB 261** (*Deeds*) direct the Department of Behavioral Health and Developmental Services (DBHDS) to review requirements for qualifications, training and oversight of individuals designated by CSBs to perform evaluations of individuals subject to emergency custody orders and to make recommendations, by December 1, for changes to such requirements.

HB 1232 (*Cline*) directs the DBHDS to administer a real-time, web-based bed registry for psychiatric beds available in public and private facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. The bill took effect in April.

SB 260 (*Deeds*) includes the provisions approved in HB 478 (see above), while also extending from 48 to 72 hours the time period an individual can be held involuntarily under a temporary detention order. It also requires a state facility to accommodate an individual if no other bed can be found (the facility and the local CSB can continue to look for a bed closer to the home community of the individual for an additional four hours). Portions of the bill took effect in April.

Land Use

HB 208 (*D.W. Marshall*) amends the existing vested rights statute by clarifying that structures that meet certain conditions shall be considered nonconforming.

HB 209 (*D.W. Marshall*) removes the requirement that developers submit preliminary plats for subdivisions with fewer than 50 lots.

HB 268 (*Orrock*) and **SB 51** (*Stuart*) allow all “usual and customary” agritourism activities unless the activity causes substantial impact on the health, safety, or general welfare of the public, while putting restrictions on local tools such as special permits and exceptions used to assure proper balance of activities among various land use types. The bill also continues the On-Farm Activities Working Group established last year to examine agritourism issues.

HB 296 (*Villanueva*) and **SB 58** (*Marsden*) require localities to take into consideration how transportation infrastructure and facilities may be aligned with affordable, accessible housing and community services when developing the transportation component of the comprehensive plan.

HB 527 (*Pogge*) provides that for purposes of zoning, a residential facility where no more than eight individuals with mental illness, intellectual disability or developmental disabilities reside with one or more resident or nonresident staff persons, shall be considered residential occupancy by a single family; currently, such facilities are required to have one or more resident counselors or other staff persons to qualify for this zoning designation.

HB 1084 (*Morris*) and **SB 578** (*Obenshain*) stipulate that if an approval of denial of a land use application includes a provision that violates the Virginia Constitution, the applicant may sue in state court, may have the project approved by the court with the unconstitutional provision removed, and may recover compensatory damages and attorney fees.

SB 241 (*Stuart*) provides that a local ordinance on transfer of development rights may require that development comply with any prior locality-adopted neighborhood design standards identified in the comprehensive plan for the receiving area in which the development shall occur.

SB 430 (*Watkins*) sets out a new ABC license for “farm breweries” that 1) limits new brewery licenses to land zoned agricultural; 2) maintains the ability for localities to regulate minimum parking, road access and road upgrade requirements; and 3) limits the licensed premises to areas under cultivation that are contiguous to the brewery. The bill also now requires a process by

which ABC must notify localities of proposals to expand the licensed premises beyond the brewery and contiguous area under cultivation.

Local Government

HB 143 (*Minchew*) provides that documents required to be posted on or at the front door of or on a public bulletin board at a courthouse may instead be posted on the government website of the locality served by the court.

HB 149 (*Minchew*) provides that an alternate member be appointed to a board of equalization if a regular member applies to the board for relief.

HB 199 (*Farrell*) makes Code provisions for local grass-cutting ordinances applicable statewide for all localities; currently, provisions are applicable only to certain named localities.

HB 193 (*Minchew*) and **SB 161** (*Favola*) require a public body to adopt a written policy allowing for and governing participation of its members by electronic communication, including an approval process for such participation. Once adopted, the public body shall apply the policy uniformly to its membership, without regard to the identity of the member requesting such participation or the matters to be considered or voted on at the meeting. The bill also calls for the recordation in the meeting minutes if a member's participation from a remote location is denied.

HB 215 (*Tyler*) establishes a process for withdrawal from a district board of social services by the local governing body of a county or city.

HB 262 (*Scott*) and **SB 316** (*Vogel*) provide that in cases in which a member of a local board of social services is also a member of the board of supervisors of a county represented by the local board, he shall serve on the local board at the pleasure of the board of supervisors of which he is a member, or until such time as he ceases to be a member of the board of supervisors.

HB 420 (*Minchew*) authorizes any county, city, town or other political subdivision to adopt an ordinance making it a Class 1 misdemeanor for any non-full-time officer, agent, employee or elected official, without lawful authorization, to use or permit the use of public assets for private or personal purposes.

HB 494 (*Lingamfelter*) requires localities (except towns under 3,500 population that do not have personnel policies) to establish personnel policies covering the use of public property by officers and employees of the locality, which shall address the use of telephones and computers for personal use and political activities.

HB 652 (*LaRock*) requires that all affected landowners be given notice via first class mail of a proposed voluntary boundary adjustment.

HB 733 (*Lingamfelter*) allows localities by ordinance to prohibit vehicle parking that blocks access to and preventing use of curb ramps, fire hydrants and mailboxes on public or private property.

HB 997 (*Anderson*) strengthens the requirements for disinterment and relocation of human remains from an abandoned or neglected cemetery or graveyard. It requires that should any locality having acquired land on which an abandoned graveyard is located initiate plans to use that land for purposes other than to maintain it, the locality shall, prior to completion of such plans, develop and engage the public on efforts to avoid adverse impacts to the graveyard or to remove the remains interred in such graveyard to an alternative repository.

HB 1075 (*Jones*) provides that no audit shall be required for certain political subdivisions, the members of whose governing body are not elected by popular vote, for any fiscal year during which such entity's financial transactions did not exceed \$25,000; the current threshold is \$5,000.

HB 1209 (*Torian*) clarifies that a local governing body may, after notice and a public hearing, either approve or deny a zoning permit application for a family day home serving six to 12 children.

HB 1210 (*Hester*) allows a local governing body, by ordinance, to create a community improvement district.

HB 1211 (*Gilbert*) and **SB 649** (*Norment*) are the omnibus ethics reform/conflict of interest bills that contain the following provisions related to local governments: 1) A new limit of \$250 per item of tangible gifts to local government officers and employees and their immediate families; 2) Semi-annual filing (currently annual) of financial disclosure forms to a new Conflict of Interests and Ethics Advisory Council; 3) The Advisory Council is authorized to provide opinions to local government officers and employees on whether a conflict exists in an upcoming vote, transaction and other issue; and 4) Reduces from \$10,000 to \$5,000 the financial interest that creates a personal interest in a contract or transaction.

SB 312 (*Vogel*) extends the current moratorium on annexation by cities until July 1 following the 2014-2016 biennium.

SB 444 (*Norment*) authorizes any locality to prohibit by ordinance the keeping of hybrid canines.

Public Safety

HB 310 (*Lingamfelter*) provides that state and local governmental agencies shall grant certain radio or television personnel access to their broadcasting station or television system within an area declared a state of emergency area by the governor, for the purpose of providing news, public service and public safety information, and repairing or resupplying their facility or equipment.

HB 405 (*R.B. Bell*) and **SB 332** (*Howell*) require a local department of social services to notify the local Commonwealth Attorney and the local law-enforcement agency of all complaints of suspected child abuse and neglect involving certain injuries or criminal acts, immediately upon receipt, but in no case more than two hours from receipt of the complaint.

SB 496 (*Norment*) repeals *Code* provisions allowing a circuit court to appoint special police officers for a locality upon application of the sheriff or chief of police; these changes do not affect the ability to request appointment of a special conservator of the peace.

Transportation

HB 2 (*Stolle*) provides for the development of a prioritization process for projects funded by the Commonwealth Transportation Board (CTB). Such prioritization shall weigh factors such as congestion mitigation, economic development, accessibility, safety, and environmental quality and be applied within each highway construction district. The CTB is to solicit input from localities, Metropolitan Planning Organizations (MPOs) and other stakeholders in developing this process and shall select projects for funding pursuant to this act beginning July 1, 2016.

HB 122 (*Scott*) and **SB 393** (*Reeves*) define a new class of vehicle, known as an autocycle, and provide for examination of drivers, registration fees, safety, inspection and other requirements pursuant to creating this new class of vehicle.

HB 255 (*Lingamfelter*) requires that all "photo-red" systems have yellow light signal lengths of at least three seconds.

HB 311 (*LeMunyon*) creates a proposed Title 33.2, named Highways and Other Surface Transportation Systems, as a revision to transportation provisions in various titles, to remove obsolete and duplicative provisions and improve the organization, structure and clarity of statutes pertaining to highways, bridges, ferries, rail and public transportation, transportation funding, and local and regional transportation. The bill takes effect October 1.

HB 340 (*Taylor*) allows moneys in the Alternative Fuel Vehicle Conversion Fund to be used by local governments, local governmental agencies, and local school divisions for assisting with the incremental cost of local government-owned alternative fuel vehicles.

HB 396 (*O'Bannon*) and **SB 298** (*Watkins*) codify appropriation act language dealing with funding of the Department of Rail and Public Transportation as it relates to implementing rail, public transportation and congestion management programs and grants.

HB 854 (*Garrett*) and **SB 470** (*Smith*) apply statewide the 35-mph maximum speed limit on nonsurface-treated (gravel) highways that currently is applied only in certain counties.

HB 904 (*Hugo*) requires the Virginia Department of Transportation (VDOT) to send letters to affected property owners at least 30 days prior to a public hearing on any transportation project valued in excess of \$100 million.

HB 975 (*Rust*) and **SB 127** (*Newman*) repeal the \$64 annual license tax on hybrid electric motor vehicles that took effect July 1, 2013. The bill also provides for refunds of the tax paid on such vehicles for registration years beginning on or after July 1, 2014.

HB 978 (*Rust*) establishes a framework for the CTB to resolve differences between a locality and a private entity concerning the movement of utilities owned by the locality or political subdivision because of a Public-Private Transportation Act project.

HB 1048 (*Rust*) and **SB 518** (*Wagner*) include primary state highway system extensions (the part of the primary highway that runs through a city or town) in the list of highways that can receive the 25% of the amount allocated each year by the CTB for reconstruction of deteriorated highways. The bills also reduce the number of vehicles per day from 200 to 50 for unpaved roads that may be considered for five percent of the annual allocation.

HB 1090 (*Villanueva*) requires the Secretary of Transportation and VDOT to incorporate new smart road technologies and innovations in statewide transportation technology programs.

SB 97 (*Reeves*) increases from two to three feet the minimum clearance between a passing vehicle and, among other things, a bicycle, moped or personal assistive mobility device.

Miscellaneous

HB 264 (*R.P. Bell*) and **SB 417** (*Hanger*) allow local boards of social services to employ in-house counsel to provide general legal advice and representation related to specific actions.

HB 377 (*Anderson*) includes the erection of a sound barrier in the list of actions that allows relocation of a billboard sign, and allows a nonconforming billboard to remain in its original location until VDOT gives notice to its owner that construction is ready to proceed.

HB 451 (*R.B. Bell*) adds sexual battery, attempted sexual battery, and several other offenses to the list of offenses for which a circuit court, upon petition, may remove from office an elected officer or officer appointed to fill an elective office.

HB 606 (*Miller*) and **SB 443** (*Norment*) increase and decrease the number of circuit, general district and juvenile court judges authorized for each judicial circuit and district in accordance with a study report issued by the National Center for State Courts. In our region, the 16th Circuit gains one circuit court judge and the 16th District gains two juvenile court judges. The 24th District loses a general district court judge and gains a juvenile court judge.

HB 722 (*McClellan*) and **SB 117** (*Watkins*) provide that licensed providers of methadone treatment that are exempt from restrictions regarding proximity to a school or day care center do not retain the exemption when relocating an existing facility or establishing a new facility; the bill does not apply to certain facilities located in Northern Virginia.

HB 740 (*McClellan*) provides that a local animal control officer or other officer shall have a duty to seize or kill a dog found in the act of killing or injuring livestock or poultry; current law provides that the officer shall have a duty to kill the dog.

HB 872 (*Rush*) provides that interjurisdictional law-enforcement agreements may allow for the loan of unmarked police vehicles.

HB 1011 (*Byron*) extends from July 1, 2014, to July 1, 2018, the task force appointed by the Governor to review state mandates on localities.

HB 1024 (*Ingram*) requires the court to order a special election for a vacancy in any elected constitutional or local office to be held on the date of the next general election, unless the governing body filing the petition for a writ of election requests a different date, in which case the court shall order the election be held on that date as long as it precedes the date of such next

general election. If the vacancy occurs within 90 days of the next general election, the special election shall be held on the second general election, unless otherwise requested in the petition. **HB 1089** (*Morris*) clarifies the definition of agricultural products; the bill has a delayed effective date of January 1, 2015.

HB 1237 (*Gilbert*) and **SB 154** (*Puckett*) allow hunting on Sundays under certain circumstances.

SB 5 (*Edwards*) restores application of certain provisions of the Right to Farm Act, currently only applicable to counties, to cities and towns.

SB 87 (*Watkins*) makes technical amendments to the programs administered by the Virginia Retirement System.

SB 188 (*McDougle*) authorizes the inclusion of a Roth contribution program in deferred compensation retirement plans for state and local government employees, beginning July 1, 2015.

SB 365 (*Reeves*) provides that counterfeit and contraband cigarettes that have been forfeited to law enforcement do not have to be destroyed, but may be used by law enforcement for the conduct of undercover operations. The bill also allows law-enforcement agencies to possess, for investigative purposes, cigarettes without tax stamps.

STUDIES AND RESOLUTIONS

HJR 16 (*Stolle*) and **SJR 3** (*Locke*) establish a joint subcommittee to formulate recommendations for development of a comprehensive and coordinated planning effort to address the impacts of recurrent flooding. A report is due to the 2016 General Assembly.

HJR 96 (*Anderson*) directs the Freedom of Information Advisory Council to examine the organizational structure of the Virginia Freedom of Information Act (FOIA) and to study all exemptions contained in the FOIA to determine the continued applicability or appropriateness of such exemptions. A report is due in late 2016.

HJR 103 (*Jones*) directs the Joint Legislative Audit and Review Commission to review the structure, costs and administration of benefits available under the Line of Duty Act, which provides death and ongoing health insurance benefits to eligible hazardous duty employees and their families if they are killed or permanently disabled as a result of their official duties. The study will (1) examine benefits eligibility and determination; (2) determine the cost of fully funding all benefits payable under the act; and (3) review how other programs that provide similar benefits are administered and funded. A report is due in late 2015.

HJR 122 (*LeMunyon*) requests the Secretary of Transportation and VDOT to create and implement statewide transportation technology goals and a five-year plan of action to enhance the efficiency, safety, and convenience of all transportation modes.

SJR 47 (*Deeds*) establishes a subcommittee to conduct a comprehensive review of mental health care services, including tasks to review information on the publicly-funded system of mental health care; identify gaps in publicly-funded mental health services; and recommend changes to the provision of mental health care and the system of publicly-funded mental health care. This study committee has a four-year timeframe for its work.