

**RICHMOND REGIONAL  
PLANNING DISTRICT COMMISSION  
LEGISLATIVE UPDATE  
MARCH 14, 2002**

**REGIONAL COMPETITIVENESS PROGRAM**

The House removed \$13,205,845 from the Regional Competitiveness Program over the biennium. Language maintains the \$300,000 floor but asserts that after the state has met its five year commitment, funding shall be discontinued, thereby phasing out the program entirely. With the House version, the Richmond Partnership has one year remaining to receive funding, at which time our involvement with the program will end.

The Senate removed \$15m (\$7.5 m each year) from RCP but added \$2m each year for workforce training services specifically. Partnerships can apply for the workforce money through DHCD. Applications will be evaluated on factors other than population, including the availability of jobs in the region; the median income and unemployment rate of the region; and the participation and contributions of the private sector and local governments, local WIBs and others; along with other related factors. This version preserves about \$1.7 million each year for the RCP and removes the \$300,000 floor on funding, so the money would be allocated among all the partnerships on a per capita basis.

Funding for the Regional Competitiveness Program has been eliminated—\$18 million has been removed from the program in the biennial budget. In place of RCP funds, there is \$2 million each year available to eligible partnerships for workforce services programs that will be distributed by DHCD. Details will be forthcoming within the next few weeks.

**SALES AND USE TAX INCREASES FOR TRANSPORTATION AND EDUCATION**

**HB 1296 (Rollison)**—Calls for a 1.) Statewide referendum in November for a half cent increase in state sales and use tax for education. 2.) Regional referendum for a half cent sales tax increase in Northern Virginia for transportation. This bill is in conference committee.

**SB 170 (Colgan)**—Calls for 1.) Authorizing Northern Virginia to have a ballot question to impose an income tax of up to .5 percent with proceeds going to public school construction and 2.) A referendum for a half cent sales and use tax increase in Northern Virginia for transportation. This bill is in conference committee.

**FYI: SB 668 (Williams)** – Calls for a regional referendum this November to increase sales and use tax in Hampton Roads by one cent, dedicated to transportation. This bill is awaiting the Governor's signature.

**By unanimous consent—SB 692:** Another bill (Saslaw) was introduced on the Senate floor February 28, addressing education and transportation funding. It has been referred to Senate Finance.



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## HOUSE COMMITTEES

### APPROPRIATIONS

**HB 463 Brownfield Restoration and Land Renewal Act** – Consolidates and reorganizes existing provisions related to brownfields restoration.

### COMMERCE AND LABOR

**HB1021, SB 245** – Allows any locality to sell telecommunications infrastructure, including related equipment, which such locality had constructed and such locality may receive from the purchaser or purchasers, as full or partial consideration for the sale of such infrastructure, communications services to be used solely for internal use of the locality. The locality shall not be involved in any way in the promotion or marketing of services provided by any purchaser. Amendments to these bills provide that a locality will not have to sell its system until three competitors enter the market providing service that is.) functionally (same transmission speed) and 2.) economically equivalent.

### COUNTIES, CITIES AND TOWNS

**HB 61 Courthouses; construction and repair** – Requires a panel (selected by the local governing body and which reports back to the local governing body) to determine that a danger to health, welfare, and safety of court employees or the public exists before a judge can issue an order requiring a county or city to construct a new courthouse or to repair or secure an existing courthouse.

**HB 166 Civil penalties for zoning violations** – Raises the civil penalty for subsequent zoning violations from \$150 to \$250. A series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5000.

**HB 225 Liens for local water and sewer charges** – Allows any locality to provide that charges for water or sewers or use thereof shall be a lien on the real estate served by such waterline or sewer. Currently, the statute applies to an assortment of counties, cities, and towns.

**HB 227 Service districts; property assessment** – Provides that any locality imposing a tax pursuant to service district authority may base the tax on the full assessed value of the taxable property within the service district, notwithstanding any special use value assessment of property within the service district for land preservation.

**HB 346 Clustering of single-family dwellings so as to preserve open space** – Provides that a locality may provide in its zoning or subdivision ordinance standards, conditions and criteria for clustering of single-family dwellings and the preservation of open space developments. *Note: There is an exemption for lots of two acres or less.*

**HB 477 Advertisement of zoning amendments** – Amends the existing advertisement requirements for zoning amendments to include changes to the applicable zoning ordinance text regulations affecting use or development density. *Note: Amendments include: 1.) This is required only if it affects a zoning text amendment that “decreases the allowed dwelling unit density” of more than 25 parcels 2.) Exempts from notice owners of lots with less than 11,500 sq ft.*

**HB 495 Preliminary subdivision plat approval** – Provides that once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided that the subdivider 1.) Submits a final plat after approval of the preliminary plat and 2.) Diligently pursues approval of the final subdivision plat. The bill also defines “diligent pursuit.”

**HB 894, SB 493 Mutual aid agreements** – Removes the requirement that the governing bodies of localities be contiguous if they enter in and become parties to contracts or mutual aid agreements for the use of their joint police or other law-enforcement forces, both regular and auxiliary, their equipment, and materials to maintain peace and good order. *Note: Amendment added that the agreement must be by resolution.*

**HB 981, HB 993 Revocation of special exceptions** – Clarifies that a governing body that issues special exceptions may revoke such special exceptions in the same manner as the board of zoning appeals.

**HB 990, SB 432** – Clarifies that whenever an IDA is given authority to finance through bonds, it may also refinance such bonds. Also, the City of Richmond is given authority to call its IDA an economic development authority.

**HB 1178 Notice of zoning amendments** – Extends the advance notice required for certain proposed zoning amendments from five days to 30 days and provides that if the provisions of a recorded plat or final site plan conflict with any underlying zoning conditions, the provisions of the recorded plat or final site plan shall control, and the zoning amendment notice requirements of § 15.2-2204 shall be deemed to have been satisfied. *Note: The bottom line on this bill is that an administrative error takes precedence over ordinance.*

**HB 1190 Release of performance guarantees** – Requires that should a governing body choose to inspect any proposed public facility constructed by a subdivider or developer, the inspection shall take place and be completed within 30 days of receipt of the written notice by the subdivider and shall not include the involvement of any third party. *Note: Although this bill still removes homeowner associations from the process, language was added to prohibit only non-governmental groups.*

**HB 1211 Building Code; rehabilitation of existing buildings, fire prevention** – Replaces the standards of the Southern Building Code Congress and the Building Official Conference of America with the International Code Council for formulating building code provisions by the Board of Housing and Community Development.

**HB 1299 Nonconforming use; manufactured housing** – Provides that the nonconforming use statute shall not be construed to prevent removal of a valid nonconforming manufactured housing unit from property and to replace that unit with another manufactured housing unit. *Note: This is a bad bill in that it would allow nonconforming mobile homes to be replaced. Amendments include: 1.) Must meet HUD housing codes 2.) Must rebuild, not just “fix” 3.) Must be comparable.*

## **COURTS OF JUSTICE**

**HB 843 Eminent domain; condemnation generally** – Requires pretrial, nonbinding mediation before a neutral third party when requested by either a condemning authority or a property owner whose property is being acquired by such authority. This is a recommendation of the Virginia Housing Study Commission.

**HB 844 Eminent domain** – Repeals the July 1, 2002, sunset for certain provisions relating to the exercise of the power of eminent domain. These provisions allow persons whose property is taken or damaged through exercise of the power of eminent domain to elect to have the amount of just compensation determined by either a panel of commissioners or a jury. Under the previous system, each party to a valuation dispute picks six

freeholders to serve as commissioners, from which five persons are picked. These provisions also (i) require a condemnor to provide a copy of its appraisal of the property with its offer to purchase the condemnee's property; (ii) raise the limit for compensation for a survey conducted by the condemnee from \$100 to \$1,000; (iii) require condemnors to conduct a title search of the property before making an offer to purchase or filing a certificate of take, in order to avoid delays in payments to condemnees; (iv) require VDOT to use licensed real estate appraisers in conducting its valuations for property acquisitions; and (v) allow tenants whose lease term is 12 months or longer to intervene in an eminent domain proceeding.

## **FINANCE**

**HB 228 Sanitary districts** – Authorizes localities that have established sanitary districts to base their tax assessment within sanitary districts on fair market use rather than on a land use assessment. *Note: An amendment was added stating, “ provided the owner of such property has given written consent.”*

**HB 317 BPOL tax appeals** – Allows a person assessed with a license tax to apply within three years, instead of 90 days, from the date of assessment to the assessor for a correction. The bill also allows any person assessed with a local license tax who has filed an application with a local assessing officer and has not received a final determination within one year of such filing, at his option at any time after such year, to treat such lack of action as an adverse determination and seek review of the assessment by the Tax Commissioner.

**HB 318 Taxation; local business tax appeals** – Expands the list of local business taxes from which the taxpayer may seek relief through appeal and extends the time within which initial review shall be requested of the local assessing officer from 90 days to three years. The bill also permits a taxpayer to seek review from the Tax Commissioner without a final determination from the local assessing officer if the taxpayer's application for correction to the local assessing officer has been pending for a year or more without determination.

**HB 503 BPOL tax; exemption for receipts of real estate brokers and agents** – Allows real estate brokers to claim an exclusion for commissions paid to agents provided the agent has paid the BPOL tax on such commissions. The bill also allows agents to exclude desk fees and other overhead costs paid to a broker provided the agent identifies the broker to whom such fees have been paid and the broker includes them in its license application.

## **GENERAL LAWS**

**HB 235 Freedom of Information Act; definition of working papers** – Provides that reports of consultants hired by or on behalf of a local public body and in the possession of the mayor or chief executive officer of such public body shall not be withheld from disclosure as working papers. "Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use. Additional legislation provides that for the purposes of those provisions of FOIA applicable to access to public records, constitutional officers shall be considered public bodies. *Note: An amendment was added which exempts the contents of the report until they have been distributed or disclosed to members of the local public body.*

**HB 700, SB 134 Freedom of Information; exemptions relating to terrorism** – Expands existing disclosure exemptions for security matter and building plans to protect them from terrorist activity, and create a limited opening meeting exemption for local governing bodies to discuss antiterrorism plans or responses.

**HB 729 Freedom of Information Act; definition of "public body," etc.** – States that for the purposes of FOIA, constitutional officers are public bodies with the same obligations to disclose records.

**HB 731, SB 308 Freedom of Information Act; exemption for certain e-mail addresses** – Provides an exemption from FOIA for electronic mail addresses furnished to a public body by citizens seeking to subscribe to regular electronic distributions of information by the public body.

## **TRANSPORTATION**

The most critical transportation issues are a matter of budget. (The Six-Year Plan is over committed by \$3 billion over the life of the plan; therefore, the plan must be revised to reflect a more realistic program. The Administration is committed to adopting the new Six-Year Plan by July 1.)

Governor Gilmore had proposed transferring more than \$652 m from the Transportation Trust Fund (\$317 m in FY 03 and \$335.6 in FY 04) to the General Fund. The conferees proposed replacing the \$317 m with debt service (FRANs) which could be used toward projects in the secondary system as well as projects in the Six-Year Plan, the Virginia Transportation Act of 2000 and the transit vehicle and equipment program. Conferees left the \$335.6 m in the TTF in FY 04.

Conferees also restored more than \$106 m of General Funds in FY 04 to support Virginia Transportation Act projects.

**HB 297, SB 77 Urban system construction allocations** – Allows the governing body of any city or town to, with the consent of the Commonwealth Transportation Board, expend urban system highway construction funds allocated annually to the city or town by the Commonwealth Transportation Board for resurfacing, restoration, rehabilitation, reconstruction, and improvement of streets within the city or town for which the city receives maintenance payments under § 33.1-41.1.

**HB 806 Regional bicycle advisory committees** – Requires the Virginia Department of Transportation to proceed expeditiously with the development and implementation of a program to establish regional bicycle advisory committees. The Department shall establish a committee in each of the Commonwealth's transportation districts and shall appoint citizen members to the committees. The committees shall hold regular meetings in order to seek public input for methods of improving government programs related to bicycling.

**HB 836 Board of Transportation Safety** – Requires that the interests of pedestrians and bicyclists be represented by the members of the Board of Transportation Safety. The Board, which will advise the Commissioner of Motor Vehicles, the Secretary of Transportation, and the Governor on transportation safety matters, shall consist of twelve members appointed by the Governor, subject to confirmation of the General Assembly. One member shall be appointed from each of the geographic operating districts used by the Department and shall reside in the district from which he is appointed. The remaining members shall be at-large members representing transportation safety interests in the areas of air, rail, water, motor carriers, pupil transportation, *pedestrians*, *bicyclists*, and public transit and, insofar as practical, should reflect fair and equitable statewide representation.

**HJR 211 Study; aspects of Virginia's transportation programs**– Establishes a joint subcommittee to study the implementation of recommendations of the Joint Legislative Audit and Review Commission on aspects of Virginia's transportation programs, and the efficacy of transferring certain responsibilities of the Virginia Department of Transportation and local governments. In conducting the study, the joint subcommittee shall also determine (i) the level of responsibility that the Department of Transportation should bear for the maintenance of roads in private developments; (ii) the desirability and feasibility of shifting the primary responsibility for mass transit programs in Northern Virginia from local governments to the Department of Transportation; and (iii) the desirability and feasibility of shifting the primary responsibility for construction and maintenance of secondary roads from the Department of Transportation to local governments. The work of the

joint subcommittee shall be assisted by a technical advisory committee, appointed by the chairman, to address the highway classification and allocation recommendations made by JLARC. The technical advisory committee shall include, but not be limited to, representatives of the Virginia Department of Transportation (VDOT); a representative of the Virginia Department of Rail and Public Transportation; staff to the Commonwealth's metropolitan planning organizations; local government representatives having experience with the transportation needs of rural, suburban, and urban areas; representatives of AAA of Virginia, the highway construction industry, and environmental organizations; and interested citizens. Members of the Technical Advisory Committee shall serve without compensation and voting privileges.

The joint subcommittee must report its written findings and recommendations to the Governor and the 2004 Session of the General Assembly.

## **SENATE COMMITTEES**

### **BY UNANIMOUS CONSENT:**

**SB 693 Courthouse and courtroom security; assessment** – Introduced by unanimous consent on March 8 (Stolle) requiring sheriffs to ensure that the courthouses and courtrooms within his jurisdiction are secure from violence and disruption and shall designate deputies for this purpose. The legislation also allows localities to assess a fee of up to \$5, collected by the clerk of the court, remitted to, and held by the treasurer, subject to appropriation by the governing body to the sheriff's office for the funding of courthouse security. The provisions of this subsection shall expire on July 1, 2004. *Note: The introduced language authorized a \$10 fee.*

### **GENERAL LAWS**

**SB 610 Pilot project with Centers for Disease Control and Prevention created** – Creates a pilot project under the Department of Information Technology (DIT) to develop a standardized Geographic Information System (GIS) model for the purposes of sharing health data. This pilot project shall involve the Northern Virginia Planning District Commission (NVPDC), Richmond Regional Planning District Commission (RRPDC), Hampton Roads Planning District Commission (HRPDC), Department of Health and the Geographic Information Network Division of the Department of Technology Planning. The planning district commissions, as appropriate, shall provide staff support and all agencies of the Commonwealth shall provide assistance to DIT, as requested. The bill requires DIT to submit an annual report to the Governor and the General Assembly on the progress of this pilot project. The bill expires on July 1, 2005. *Note: An amendment was added to the language stating, "To the maximum extent practicable, the private sector shall be utilized by contract to provide such goods and services as are necessary to carry out the purposes of this act."*

### **LOCAL GOVERNMENT**

**SB 593 Local control of firearms** – Provides that a statute that does not refer to firearms or ammunition shall not be construed to provide express authorization for localities to regulate firearms. From and after January 1, 1987, no locality shall adopt any ordinance, resolution, motion, administrative rule or regulation governing the purchase, possession, transfer, ownership, carrying or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. *Note: An amendment was added taking into account "workplace" concerns but was rejected by the House.*

**SB 181 Moratorium on city annexation and county immunity** – Provides that, beginning July 1, 2004, cities may undertake annexation proceedings and counties may request immunity from annexation when actual appropriations to local governments for law-enforcement expenditures are less than the amount statutorily required.

## **TRANSPORTATION**

**SB 226 Regulation of outdoor advertising in sight of public highways** – Defines the term "lawfully erected," for the purposes of Article 1 of Chapter 7 of Title 33.1 of the Code of Virginia to mean any sign that was erected pursuant to a permit from the Commonwealth Transportation Commissioner and for which the owner has paid taxes assessed by the locality wherein the sign is located, without the sign's having been removed for a period of more than two years. *Note: Overrides jurisdiction's ordinances.*

## **LEGISLATION FAILED, CARRIED OVER, OR PASSED BY**

**HB 271 Outdoor lighting standards and regulations; establishment** – Would have granted all localities authority to establish by ordinance outdoor lighting standards and regulations for the purpose of controlling exterior illumination levels, incidence of glare, light trespass or urban sky-glow, or for the purpose of conserving energy. Continued to 2003 in C. C. T.

**HB 291 Eminent domain; compensation for loss of goodwill and lost profits** – Would have entitled the owner of business property that is taken by eminent domain to be compensated for goodwill and for lost profits. Goodwill consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill, or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage. Continued to 2003 in General Laws.

**HB 483 Public comment at meetings of governing bodies and school boards** – Would have required governing bodies and school boards to provide a reasonable opportunity for members of the public to comment on matters of concern prior to taking official action. Withdrawn.

**HB 506 Investigations of law-enforcement officers and firefighters** – Would have provided that during investigation or interrogation, law-enforcement officers, firefighters, and emergency medical technicians shall have the right to be represented by counsel at all stages of the proceedings. Withdrawn.

**HB 604 Carrying concealed weapons** – Would have provided that a valid concealed handgun permit or license issued by another state would be valid in the Commonwealth if the state issues a permit including a photograph of the permittee. Failed to pass in the House.

**HB 929 Public-Private Transportation Act; tolls on certain facilities** – Would have limited the number of Public-Private Transportation Act facilities that may be tolled by defining "reconstructed to provide for increased capacity." The operator would have had all power allowed by law generally to a private entity having the same form of organization as the operator and shall have the power to acquire, construct, improve or operate the qualifying transportation facility and impose user fees and/or enter into service contracts in connection with the use thereof. No tolls or user fees may be imposed by the operator on any existing interstate highway. Furthermore, no tolls or user fees may be imposed by the operator on any free road, bridge, tunnel or overpass unless such road, bridge, tunnel or overpass is reconstructed to provide for increased capacity. For the purpose of this subsection, "reconstructed to provide for increased capacity" means that the specific road, bridge, tunnel or overpass for the use of which a toll is to be imposed has been rebuilt, reconfigured, enlarged, expanded or otherwise physically changed so as to enable larger numbers of vehicles to use such road, bridge,

tunnel or overpass during peak-use periods. Mere addition, replacement, or alteration of signs, signals, or traffic controls alone shall not be considered reconstruction for the purpose of this subsection. Continued to 2003 in Transportation.

**HB 996 Plat approval** – Would have required the planning commission to identify all deficiencies in a plat that cause disapproval and identify all modifications or corrections as will permit approval of the plat and must act on any proposed plat within forty-five days of submittal, rather than sixty days. The failure to act shall cause the plat to be deemed approved. The commission shall act on any proposed plat that it has previously disapproved within 30 days after the plat has been resubmitted for approval. Continued to 2003 in C.C.T.

**HB 1130 Mandatory connection to water and sewage systems** – Allows an owner of undeveloped land in certain counties to use a private system for providing a supply of water. Re-referred and left in Senate Local Government.

**HB 1367 Zoning amendments** – Would have provided that no amendment to the zoning map shall be instituted without the written consent of or just compensation to the landowner whose property is the subject of such amendment. Continued to 2003 in C.C.T.


**HB 1212 Zoning; manufactured housing** – Would have provided, under certain circumstances, that certain manufactured homes shall be deemed the same as site-built homes for purposes of zoning regulatory standards. *Note: The argument used against this legislation was that it undermines local government authority. This bill will return next year.* Continued to 2003 in C. C. T.

**SB 100 Local outdoor lighting standards and regulations** – Would have granted all localities authority to establish, by ordinance, outdoor lighting standards and regulations for the purpose of controlling exterior illumination levels, incidence of glare, light trespass or urban sky-glow, or for the purpose of conserving energy. Continued to 2003 in C. C. T.

**SB 404 Assessment for courthouse security** – Would have allowed localities to assess each criminal, civil and traffic case a fee of up to ten dollars for courthouse security. Failed to report in House Courts of Justice.

**SB 441 Local taxes; administrative fees to collect delinquent taxes** – Would have increased the fees that may be charged by local governments for administrative costs incurred in collecting delinquent taxes or other delinquent charges. The fees are increased from \$20 to \$30 for delinquent taxes and other charges collected after collection actions have begun and from \$25 to \$35 for such taxes and charges collected subsequent to a judgment. In addition, the bill also allows localities to impose such administrative fees regardless of whether a warrant or other legal document has been filed. Continued to 2003 in Finance.

**SB 618 Sewage sludge; local authority, fees** – Would have provided authority for localities to enact ordinances that prohibit, restrict, or regulate the land application of sewage sludge. It also would have allowed for the collection of local fees to cover testing and monitoring costs as well as the removal of certain provisions requiring the Board of Health to adopt regulations concerning the payment, collection, and disbursement of sludge land application permit fees by the Department of Health. Continued to 2003 in Agriculture, Conservation and Natural Resources.



—April 14—  
Reconvened Session