

# Session Highlights

## 2014



**The 2014 Session Highlights summarizes significant legislation considered by the 2014 Session of the General Assembly as selected by the staff of the Virginia Division of Legislative Services. The brief overview of the General Assembly Session covers legislative actions through sine die on Saturday, March 8, 2014.**

### Agriculture

#### *Passed*

#### **HB 268/SB 51. Agricultural operations; local regulation of certain activities.**

Protects certain activities at agricultural operations from local regulation in the absence of substantial impacts on the public welfare and requires localities to take certain factors into account when regulating any of several activities: the conduct of agritourism activities, the sale of agricultural or silvicultural products or related items, the preparation or sale of foods that otherwise comply with state law, and other customary activities. The bill provides that its provisions shall not affect an entity licensed in accordance with the alcoholic beverage control laws, affect the provisions of the Right to Farm Act, alter the provisions of § 15.2-2288.3 (licensed farm wineries), or restrict the taxation authority of any locality.

#### **HB 1237/SB 154. Hunting on Sundays.**

Allows hunting on Sundays, under certain circumstances, of wild birds and wild animals that may be lawfully hunted on other days of the week. A person may hunt waterfowl, subject to restrictions imposed by the Director of the Department of Game and Inland Fisheries, and a landowner and his immediate family or a person with written permission from the landowner may hunt or kill any wild bird or wild animal, including nuisance species, on the landowner's property. However, the

aforementioned hunting activities cannot occur within 200 yards of a house of worship. The bill prohibits the hunting of deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs on Sundays.

**SB 42. Penning of fox or coyote; penalty.** Makes it a Class 1 misdemeanor for any person to erect or maintain an enclosure for the purpose of pursuing, hunting, or killing a fox or coyote with dogs. Until July 1, 2054, the bill exempts from the ban any foxhound training preserve that was operating under a permit issued by the Department of Game and Inland Fisheries as of January 1, 2014. The bill also directs the Department to adopt regulations to limit the total number of foxes stocked annually to 900, to be allocated in proportion to the acreage of each operating preserve. Finally, the bill provides that the Department shall not deny a permit solely on the basis of recordkeeping failures, and that any permit denial shall constitute a case decision under the Administrative Process Act.

**SB 228. Pet dealers; diseased animals; veterinary certificate.** Requires a pet dealer to reimburse certain veterinary fees when a consumer returns or retains a diseased dog or cat that has been certified by a veterinarian as being unfit for purchase. Current law requires the pet dealer to refund the purchase price or exchange the unfit pet for a pet of

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equivalent value. The bill extends the return or reimbursement period from 10 to 14 days in the case of an animal infected with parvovirus and eliminates the condition that the animal be described as pedigreed. The bill also requires a pet shop or licensed dealer to provide the identity of the breeder of each dog or cat for sale and incorporates information about the refund provision into the text of the required notice document. The bill requires certain dealers to record and post certain information about the breeder of each animal.

*Failed*

**HB 135. Home-produced or farm-produced products.** Allows the sale of food products made from any fruit, grain, herbs, honey, meat, milk, mushrooms, nuts, poultry, seafood, or vegetables by a farm operation employing 10 or fewer people or by a private home, so long as (i) the sale is made directly to consumers and (ii) the product is labeled with the producer's name and address, the product's ingredients, and a disclosure statement indicating the product is not subject to Virginia's food safety laws or regulations.

**Business**

*Passed*

**HB 375/SB 150. Patent infringement; assertions made in bad faith.** Prohibits any person from making in bad faith an assertion of patent infringement. The Attorney General or an attorney for the Commonwealth is empowered to accept assurances of voluntary compliance and seek injunctive relief. The Attorney General is authorized to issue civil investigative demands. The measure does not create a private cause of action. The measure does not apply to a demand letter or assertion of patent infringement that includes a claim for relief arising under 35 U.S.C. § 271(e)(2) or 42 U.S.C. § 262.

**SB 18. Unemployment compensation; quit to follow military spouse.** Provides that good cause for leaving employment exists if an employee voluntarily leaves a job to accompany the employee's spouse, who is on active duty in the military or naval services of the United States, to a new military-related assignment established pursuant to a permanent change of duty order from which the employee's place of employment is not reasonably accessible. The measure applies only if the state to which the spouse is transferred has a similar provision. Benefits paid to qualifying

claimants shall be charged against the pool rather than against the claimant's employer. The provisions of the bill expire on December 31, 2020.

**SB 459. Electric utility regulation; recovery of nuclear costs.** Requires an electric utility to establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer operation and maintenance costs incurred in connection with the refueling of any nuclear-powered generating plant and certain related work. The measure also limits the portion of the costs incurred by an electric utility between July 1, 2007, and December 31, 2013, in developing a nuclear power facility that are recoverable through a rate adjustment clause to 30 percent of such amount. The remaining 70 percent of such costs may be recovered through existing base rates as determined by the SCC in the test periods under review in the utility's next biennial review filed after July 1, 2014.

**SB 585. Electric utility regulation; recovery of costs of new underground distribution facilities.**

Authorizes investor-owned electric utilities to recover the costs of new underground distribution facilities through a rate adjustment clause. Eligible facilities will replace existing overhead distribution facilities of 69 kilovolts or less. Petitions seeking approval for recovery of such costs shall not be brought more frequently than annually. A utility shall not seek any annual incremental increase in the level of investments in such facilities that exceeds five percent of the utility's distribution rate base. None of the costs of such new facilities shall be allocated to customers in the large power service rate class for a Phase I utility or general service rate classes for a Phase II utility.

*Failed*

**HB 536/SB 590. Minimum wage.** Increases the minimum wage from its current federally mandated level of \$7.25 per hour to \$8.25 per hour effective July 1, 2014, and to \$9.25 per hour effective July 1, 2015, unless a higher minimum wage is required by the federal Fair Labor Standards Act.

*Carried Over*

**HB 946. Workers' compensation; fee schedule for medical care services; limitations; prompt payment.** Limits the pecuniary liability of an employer for medical, surgical, and hospital services provided on or after October 1, 2015, pursuant to the Virginia Workers' Compensation Act to the maximum amount that may be paid pursuant to fee schedules

established by the Workers' Compensation Commission, unless a contract provides otherwise. The Commission is directed to promulgate regulations establishing medical care fee schedules governing all medical care services rendered pursuant to the Act. Finally, the bill requires an insurer or self-insured employer, effective October 1, 2015, to either pay a medical bill or deny payment of the bill within 60 days of receiving a bill and supporting medical documentation. If the Commission finds that the self-insured employer or insurer unreasonably denied payment for medical services, it shall order payment for the services and award interest if the employee has paid for the services.

**SB 275. Health insurance; victims of sexual assault; cost-sharing requirement for HIV prevention medication.** Prohibits certain insurance policies, subscription contracts, and health maintenance organization contracts from imposing on an insured, subscriber, or enrollee who is the victim of sexual assault any cost-sharing requirement, including a co-payment, coinsurance, deductible, or other dollar limit provision, with respect to any medication prescribed to prevent HIV.

**SB 479. Tanning facilities; age limit; parental consent.** Prohibits minors younger than 15 years of age from using tanning devices at tanning facilities. The measure also prohibits unemancipated minors age 15, 16, or 17 from using tanning devices at tanning facilities unless a parent or legal guardian has consented in writing. The written consent form is required to include information developed or approved by the Department of Health. Currently, the parent or legal guardian of a prospective customer younger than 15 years of age is required to sign a written warning statement.

## Constitutional Amendment

### *Passed*

**HJ 8/HB 46. Constitutional amendment and voter referendum; real property tax exemption for spouses of soldiers killed in action.** Provides that the General Assembly, if the amendment is approved by voter referendum at the November 4, 2014, election, may provide a real property tax exemption for the primary residence of surviving spouses of members of the military who are killed in action. Such tax exemption may not be claimed by a surviving spouse who has remarried.

## Courts and Civil Law

### *Passed*

**HB 301. Admissibility of business records.** Provides that in any civil proceeding the authentication and foundation necessary for the admission of a business record under the business records exception to the rule against hearsay may be laid by witness testimony, a certificate of authenticity of and foundation for the record made by the record's custodian or another qualified witness, or a combination of testimony and a certification. The bill also provides that the proponent of the record must give written notice to all other parties no later than 15 days in advance of the trial or hearing if a certification will be relied on for the admission of such record and provide a copy of the record and certification to all other parties.

**HB 933. Update to child support guidelines.** Provides for updated child support guidelines. The new guidelines specify obligors' monthly child support obligation on the basis of gross monthly income in increments up to \$35,000, with an additional amount calculated as a percentage of gross monthly income above \$35,000. The bill allows the court to set a support obligation below the presumptive statutory minimum for obligors who earn up to 150 percent of the federal poverty level, provided that such lower amount does not seriously impair the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child. The bill also removes the \$250 floor on reasonable and necessary unreimbursed medical or dental expenses that parents are required to pay in proportion to their gross incomes. This bill is a recommendation of the Child Support Guidelines Review Panel.

**HB 1084/SB 578. Damages, attorney fees, and costs for unconstitutional grant or denial by locality of certain permits and approvals.** Provides that an applicant aggrieved by the grant or denial by a locality of any approval or permit, where such grant included, or denial was based upon, an unconstitutional condition, shall be entitled to an award of compensatory damages and may be awarded reasonable attorney fees and costs. The bill also provides that the applicant shall be entitled to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without the unconstitutional condition. The provisions of the bill apply only to approvals or permits that are granted or denied on or after July 1, 2014.

**SB 116. Correcting errors in deeds, deeds of trust, and mortgages; affidavit.** Allows an attorney to record a corrective affidavit to correct an obvious description error contained in a recorded deed, deed of trust, or mortgage. Obvious description errors include (i) errors transcribing courses and distances, (ii) errors incorporating a recorded plat or deed reference, (iii) errors in listing a lot number or designation, and (iv) omitted exhibits that supply the legal description of the property. Before a corrective affidavit may be recorded, all parties to the deed, deed of trust, or mortgage, including the current property owner, the attorney who prepared the deed, deed of trust, or mortgage, and the title insurance company, must be provided with a copy of the affidavit, and such parties have 30 days to object in writing to the recordation of the corrective affidavit.

*Failed*

**HB 487 Fiduciaries; letters of administration; bond without surety.** Provides that certificates of qualification and letters of administration for obtaining probate must state (i) the amount of any surety required or (ii) that no surety was required. The bill also requires good cause be shown in order for a circuit court, or circuit court clerk, having authority to appoint a personal representative to allow that representative to give bond without surety where the amount coming into possession of the personal representative is \$15,000 or less. The bill also provides that no personal representative giving bond without surety shall be permitted control over a decedent's property valued in excess of \$15,000.

**HB 731. Virginia Fraud Against Taxpayers Act; liability for employment discrimination.** Provides that when an employee is discriminated against in the terms and conditions of employment in whole or in part because of lawful acts done in furtherance of an action under the Virginia Fraud Against Taxpayers Act, or because of other efforts to stop a violation of the Virginia Fraud Against Taxpayers Act, joint and several liability shall extend to the officer or agent of the Commonwealth responsible for the adverse employment action.

**HB 1113. Adoption by person other than spouse of a parent.** Provides that a person other than the spouse of a parent may adopt a child if the child has only one parent, the adoption would not terminate the parental rights of the parent, and the parent joins in the petition for the purpose of indicating his consent.

*Carried Over*

**HB 738. Agreements to obtain land for conservation easements; consent required; inverse condemnation.** Provides that where the Commonwealth or any political subdivision possessing the power of eminent domain enters into an agreement to obtain a conservation easement, the Commonwealth shall first obtain the consent of all private landowners whose property would be subject to such easement, and any such landowner whose consent is not obtained shall have a cause of action against the Commonwealth for inverse condemnation.

**HB 935. Civil action for unlawful dissemination or sale of images of another.** Provides for a civil cause of action for the dissemination or sale of images depicting another person who is totally nude, in a state of undress, or engaged in sexual conduct where such person knows or has reason to know that he is not licensed or privileged to do so and the person depicted suffers substantial emotional distress.

**Criminal Justice**

*Passed*

**HB 17. Warrant requirement for certain telecommunications records; real-time location data.** Provides that a provider of electronic communication service or remote computing service shall not disclose real-time location data to an investigative or law-enforcement officer except pursuant to a search warrant, subject to certain exceptions. The bill defines "real-time location data" as data or information concerning the current location of an electronic device that is generated, derived from, or obtained by the operation of the device.

**HB 235/SB 454. Sex Offender and Crimes Against Minors Registry Act; solicitation of prostitution; pandering; minors.** Amends the Sex Offender and Crimes Against Minors Registry Act to add solicitation of prostitution from a minor and pandering involving a minor. The bill also provides that a person who engages in pandering involving a minor is guilty of a Class 4 felony.

**HB 326. Unlawful dissemination or sale of images of another; penalty.** Provides that a person is guilty of a Class 1 misdemeanor if he, with the intent to coerce, harass, or intimidate the depicted person, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude, in a state of undress, or

engaged in sexual conduct where such person knows or has reason to know that he is not licensed or authorized to do so. The bill also amends the crime of creating an image of a nonconsenting person by substituting the term "videographic or still image created by any means whatsoever" for the current term "videotape, photograph, or film."

**HB 810/SB 65. Reckless handling of firearms; penalty.** Provides that any person who recklessly handles a firearm and through such reckless handling causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony.

**HB 1112/SB 594. Cannabimimetic agents; controlled substance analogs; regulation by Board of Pharmacy; penalties.** Substitutes the term "cannabimimetic agents" for the term "synthetic cannabinoids" to describe certain substances that are unlawful to possess, sell, give, distribute, or manufacture. Authorizes the Board of Pharmacy to place controlled substance analogs (a substance that has a substantially similar chemical structure to a controlled substance in Schedule I or II and that has or is intended to have the same or a greater stimulant, depressant, or hallucinogenic effect on the central nervous system) into the list of controlled substances found in Schedule I or II via an expedited regulatory process. A substance added via this process is removed from such list after 18 months unless a general law is enacted adding the substance to such list. Such controlled substance analogs are subject to the same penalties as those for the actual drug. The bill also repeals the specific criminal penalties for possession, etc., of synthetic cannabinoids and places cannabimimetic agents on the list of controlled substances in Schedule I, where they will be subject to the same penalties as those for other Schedule I controlled substances with the exception of simple possession, which will be penalized as a Class 1 misdemeanor instead of as a Class 5 felony.

**SB 14. Certain sex crimes.** Adds the words "anal intercourse, cunnilingus, fellatio, and anilingus" to numerous Code sections criminalizing certain conduct to clarify the behaviors that are prohibited. The bill also clarifies the sex crimes that are prohibited by the crimes against nature statute. The bill states that an emergency exists and it is in force from its passage.

### *Failed*

**SB 450. Driving under the influence; first offenders; license conditions.** Provides that if it is an adult offender's first DUI conviction and the offender's BAC was less than .015, the sole condition of the offender's driver's license restriction shall be a requirement that the offender have an ignition interlock for one year.

### *Carried Over*

**HB 716. Trafficking in persons; penalties.** Creates new felonies for trafficking in persons for forced labor or sexual servitude and adds the new felonies as a predicate criminal act under the criminal gang statute, as racketeering crimes, and to the functions of a multijurisdiction grand jury, and also allows seizure and forfeiture of property used in committing such felonies. The new felonies and the existing felony of receiving money for procuring a person are added to the rape shield statute. The Secretary of Public Safety is required to convene an anti-trafficking committee and the Virginia Prevention of Human Trafficking Victim Fund is created, which will be administered by the Department of Criminal Justice Services.

**SB 293. Reckless driving causing death or injury of certain persons.** Punishes reckless driving or a violation of the "move-over" law that causes death or permanent and significant physical impairment by striking a law-enforcement officer, emergency medical services personnel, highway worker, firefighter, or DMV size and weight compliance agent who was not in a vehicle and on a public roadway or work zone engaged in his duties as a Class 5 felony with a \$2,500 mandatory minimum fine. The bill further requires the court to suspend the offender's driver's license for one year. In addition, the court may impose a civil penalty of up to \$10,000, and the proceeds shall be deposited into the general fund.

## Education

### *Passed*

**HB 930/SB 306. Standards of Learning assessments; reform.** Provides that the number and type of Standards of Learning assessments shall not exceed 17 specified assessments in grades three through eight. The bill requires each local school board to certify that it has provided instruction and administered an alternative assessment, in conformance with Board guidelines, for each subject area in which the Standards of Learning assessment was not adminis-

tered. The bill also requires the Secretary of Education to establish the Standards of Learning Innovation Committee to periodically review the Standards of Learning and assessments.

**HB 1229/SB 324. Grading system for individual school performance; delay.** Delays the implementation of the A-to-F school grading system by two years, to October 1, 2016.

**SB 2. Public school textbooks; East Sea.** Requires all textbooks approved by the Board of Education after July 1, 2014, to note that the Sea of Japan is also referred to as the East Sea.

### *Failed*

**HB 63. Students receiving home instruction; participation in interscholastic programs.** Prohibits public schools from joining an organization governing interscholastic programs that does not deem eligible for participation a student who (i) is receiving home instruction; (ii) has demonstrated evidence of progress for two consecutive academic years; (iii) is in compliance with immunization requirements; (iv) is entitled to free tuition in a public school; (v) has not reached the age of 19 by August 1 of the current academic year; (vi) is an amateur who receives no compensation but participates solely for the educational, physical, mental, and social benefits of the activity; (vii) complies with all disciplinary rules and is subject to all codes of conduct applicable to all public high school athletes; and (viii) complies with all other rules governing awards, all-star games, maximum consecutive semesters of high school enrollment, parental consents, physical examinations, and transfers applicable to all high school athletes. The bill allows such students to be charged reasonable fees for participation.

**HB 333. School calendar.** Makes local school boards responsible for setting the school calendar and determining the opening date of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of Education may grant waivers of this requirement.

**HB 747. In-state tuition; Deferred Action for Childhood Arrivals.** Declares a student eligible for in-state tuition if (i) he has attended a public or private high school in the Commonwealth for at least three years; (ii) he has graduated from a public or private high school in the Commonwealth or has received a General Education Development (GED) certificate in the Commonwealth; (iii) he has registered as an

entering student or is enrolled in a public institution of higher education in the Commonwealth; (iv) he has provided an I-797 Approval Notice stating that he has been approved for Deferred Action for Childhood Arrivals by the U.S. Department of Homeland Security; and (v) he has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law, Virginia income tax returns for at least three years prior to the date of enrollment.

## Elections

### *Passed*

**HB 669. Elections; absentee ballots; date requirement.** Provides that a voter's failure to provide the date, or any part of the date, on which he signed the statement on the back of the return envelope shall not render an absentee ballot void or provide officers of election with a basis for rejection.

**HB 670/SB 333. Elections; absentee ballots; name and signature requirements.** Provides that a voter's failure to provide his full middle name or his middle initial in the statement on the back of an absentee ballot envelope shall not render that absentee ballot void or provide officers of election with a basis for rejection, unless the voter also failed to provide his full first and last name.

**HB 759/SB 11. Absentee voting and procedures; secure return of voted military-overseas ballots.** Requires the State Board of Elections to provide instructions, procedures, services, a security assessment, and security measures for the secure return by electronic means of voted absentee military-overseas ballots from uniformed-service voters outside of the United States. The bill requires the State Board to develop and update annually a security assessment and security measures to ensure the accuracy and integrity of such votes. The State Board is directed to convene a working group and is required to submit an annual report to the Governor and General Assembly beginning January 1, 2016. Additionally, the State Board is directed to work with federal, state, local, and other appropriate entities to establish best practices for uniformed-service voter authentication and identification and for the secure return of such military-overseas ballots. The provisions of this bill will not become effective unless reenacted by the 2016 Session of the General Assembly.

*Failed*

**HB 31. Primary elections; voter registration by political party.** Adds party affiliation to the information that an applicant is asked to provide when registering to vote. The applicant may indicate that he is an independent. Voters registered prior to January 1, 2015, will be designated as independent unless they provide a political party designation in writing to the general registrar.

**HB 226. Campaign finance; contributions from certain organizations.** Requires political action committees to include in campaign finance reports single or aggregate contributions that exceed \$5,000 from organizations holding tax-exempt status under § 501(c)(4) of the Internal Revenue Code. The bill also requires that certain information about the contributing organization, including information about donors in particular circumstances, be disclosed in the report of the political action committee. The bill subjects single organizations whose contributions exceed \$50,000 in a calendar year, or organizations with one or more contributors in common with other organizations whose total contributions combined exceed \$50,000 in a calendar year, to current requirements for out-of-state political committees.

**HB 727. Campaign finance disclosure; out-of-state political committees.** Includes § 501(c)(4) social welfare organizations in the provisions applicable to § 527 groups in the definition of out-of-state committees that are required to file statements of organization and disclosure filings with the State Board of Elections. The bill also requires the filing of a statement of organization when a committee makes contributions in Virginia totaling \$2,000 or more in a calendar year (the current threshold is \$10,000) and requires disclosure of the committee's donors who contribute a total of \$1,000 or more (the current threshold is \$2,500).

**SB 158. Bipartisan Virginia Redistricting Commission.** Provides for a statewide referendum on the question of whether a bipartisan advisory commission should be created to propose redistricting plans for the House of Delegates, state Senate, and congressional districts. The referendum would be held at the November 2014 statewide election, and the results would be advisory only.

Freedom of Information Act*Carried Over*

**HB 788. Virginia Freedom of Information Act; out-of-state requests for records.** Sets out the process for public bodies to respond to record requests made by out-of-state requesters.

General Laws*Passed*

**HB 588. Cemetery Board; powers and duties; special interments.** Provides that a cemetery company may have a section in the cemetery devoted to the interment of human remains and those of their pets or the interment of pets only under certain circumstances. The bill requires the Cemetery Board to adopt such regulations as the Board deems appropriate and necessary to implement its provisions. The bill defines "pet."

**HB 1211/SB 649. State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council.** Establishes the Virginia Conflict of Interest and Ethics Advisory Council composed of 15 members. The Council will elect its chairman and vice-chairman. The Council will review and post online the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts and provide formal opinions and informal advice, education, and training. The bill requires the Council to transmit complaints of conflict law violations to the ethics advisory panels of the House of Delegates and Senate. The bill prohibits tangible gifts with a value of more than \$250 or a combination of tangible gifts with a value of more than \$250 to certain officers and employees of state or local governmental or advisory agencies or to legislators from a lobbyist; lobbyist's principal; or a person, business, or organization that is a party to or seeking to become a party to certain governmental contracts. The bill also clarifies the distinction between gifts and other things of value received for travel, reduces a number of disclosure provision thresholds from \$10,000 to \$5,000, and requires the disclosure of gifts to immediate family members. Gifts from a relative or personal friend are not subject to disclosure, but a lobbyist, lobbyist's principal, or a person, business, or organization that is a party or seeking to become a party to certain government

contracts cannot be considered a personal friend.

**HB 1247. Professions and occupations; expedited review; applications of spouses of military service members.** Reduces from 30 to 20 days the allowable application review period after which a regulatory board within the Department of Professional and Occupational Regulation or the Department of Health or any board named in Title 54.1 will be required to issue a temporary license to certain military spouses while the board completes its review. The bill amends a provision that is scheduled to become effective on July 1, 2014.

**SB 430. Alcoholic beverage control; limited brewery license created; local regulation of certain activities.** Creates a new limited brewery license for breweries that manufacture no more than 15,000 barrels of beer per calendar year, are located on a farm in the Commonwealth, and use agricultural products that are grown on the farm in the manufacture of their beer. The bill limits local regulation of limited brewery licensees and specifically prohibits the imposition of minimum parking, road access, or road upgrade requirements on any licensed limited brewery.

### *Failed*

**SB 248. Nondiscrimination in state employment.** Prohibits discrimination in state employment based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a special disabled veteran or other veteran covered by the Veterans Readjustment Assistance Act of 1974, as amended. The bill also defines "sexual orientation" and "gender identity."

### *Carried Over*

**HB 216. Alcoholic beverage control.** Eliminates the Alcoholic Beverage Control Board (ABC) and replaces it with the Virginia Alcoholic Beverage Control Authority, created by the bill. The bill provides for the appointment of the board of directors of the Authority and the appointment by the board of directors of a chief executive officer of the Authority and sets eligibility requirements for appointment, including background checks.

**SB 670. Government Data Collection and Dissemination Practices Act; limitation on collection and use of personal information by law enforcement.** Limits the ability of law-enforcement and regulatory agencies to use technology to collect and maintain personal information on individuals and organizations where a

warrant has not been issued and there is no reasonable suspicion of criminal activity by the individual or organization.

## Health and Mental Health

### *Passed*

**HB 612/SB 330. Genetic counseling; licensure.** Provides that no person shall practice or hold himself out as practicing genetic counseling without a valid, unrevoked license as a genetic counselor from the Board of Medicine. The bill establishes requirements and a process for licensure as a genetic counselor, sets forth exemptions from the requirements for a license, and establishes the Advisory Board on Genetic Counseling.

**SB 77. Disposition of remains; absence of next of kin.** Provides that, in the absence of a next of kin, a person designated to make arrangements for disposition of a decedent's remains, an agent named in an advance directive, or a guardian who exercises powers conferred in an order of appointment or upon the failure or refusal of such next of kin, designated person, agent, or guardian to accept responsibility for the disposition of the decedent's remains, any person who is 18 years of age or older who is able to provide identification of the deceased and willing to pay the costs of disposition of the remains may make arrangements for such disposition and may authorize cremation.

**SB 260. Emergency custody and temporary detention; duration; facility of temporary detention; acute psychiatric bed registry.** 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 provides that a representative of the law-enforcement agency that takes the person into emergency custody or executes an emergency custody order must notify the local community services board as soon as practicable after the person is taken into custody or the order is executed. The bill provides further that an individual for whom a temporary detention order is issued shall be detained in a state facility unless the state facility or an employee or designee of the community services board is able to identify an alternative facility that is able and willing to provide temporary detention. Under no circumstances shall a state facility fail or refuse to admit an individual who meets the criteria for temporary detention unless an alternative facility has agreed to accept the individual. The state facility and the local community services board may continue to look for an alternative facility for an additional four hours. The provisions of this bill

allowing for this additional four-hour period expire on June 30, 2018. The bill also requires that a person who is the subject of an emergency custody order or temporary detention order be given a written summary of the procedures and statutory protections associated with such custody or detention. The bill also directs the Department of Behavioral Health and Developmental Services to establish an acute psychiatric bed registry that will provide real-time information on the availability of beds in public and private psychiatric facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. The provisions of the bill establishing such registry are subject to an emergency clause. The Department of Behavioral Health and Developmental Services shall submit an annual report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the implementation of the provisions of the bill. Finally, the bill directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and make recommendations designed to reduce the burden on law-enforcement resources.

## Housing

### *Passed*

**HB 690. Condominium and Property Owners' Association Acts; merger of developments; reformation of declaration.** Provides a process for the merger of two or more associations and a process for seeking judicial reformation of the declaration in both Acts. The reformation procedure includes, among other requirements, at least 30 days' notice to the owners and the mortgagee and gives the mortgagee standing to participate in the reformation proceedings.

**HB 791 Condominium and Property Owners' Association Acts; rule enforcement.** Gives associations the right, to the extent the governing documents duly adopted rules expressly so provide, to (i) suspend a unit owner's right to use facilities or services, including utility services, provided directly through the unit owners' association for nonpayment of assessments which are more than 60 days past due, to the extent that access to the unit through the common elements is not precluded and provided that such suspension shall not endanger the health, safety, or property of any unit owner, tenant, or occupant; (ii) assess charges against any unit owner for any violation of the condominium instruments or of the rules or

regulations promulgated pursuant thereto for which such unit owner or his family members, tenants, guests or other invitees are responsible; and (iii) file or defend a legal action in general district or circuit court to seek an order to require that any violation of the condominium instruments or rules duly adopted pursuant thereto be corrected. The bill further provides that before any action authorized in the bill or in the governing documents is taken and after written notice of the alleged violation to the unit owner at the address required for notices of meetings, the owner shall be given a reasonable opportunity to correct the alleged violation. If the violation remains uncorrected, the owner shall be given an opportunity to be heard and to be represented by counsel before the board or such other tribunal as the governing documents or rules duly adopted pursuant thereto specify. The bill gives an appeal of right from general district court an action involving rule enforcement filed by a condominium unit owners' association or unit owner or of an action filed by a property owners' association or lot owner. Lastly, the bill provides that in the event of a legal action involving rule enforcement, the prevailing party is entitled to recover court costs and reasonable attorney fees.

## Motor Vehicles

### *Passed*

**HB 122/SB 383. New vehicle classification; autocycle.** Defines a new class of vehicle, known as an autocycle, and provides for examination of drivers, registration fees, safety, inspection, and other requirements pursuant to creating this new class of vehicle.

**HB 771. Mature driver crash prevention.** Provides for a course in mature driver motor vehicle crash prevention and provides that such course is an option for the court in adjudicating defendants. The bill also lowers the age at which drivers are required to appear before the DMV for renewal from 80 to 75 and requires that licenses issued to persons age 75 or older be valid for no more than five years.

### *Failed*

**HB 973. Use of photo-monitoring systems for traffic lights; repeal.** Repeals the authority for localities to operate a photo-monitoring system for traffic light enforcement, colloquially known as a "photo red" program.

## Natural Resources

### *Passed*

**HB 1006/SB 582. Update of the Probable Maximum Precipitation level.** Directs the Department of Conservation and Recreation to utilize a storm-based approach to calculate the Probable Maximum Precipitation (PMP) for various locations in or affecting Virginia. The methodology for a storm-based approach shall be completed by December 1, 2015. Owners of impounding structures with inadequate spillway designs who maintain coverage under the conditional certificate are not required to rehabilitate the spillway until the PMP analysis is completed and reviewed by the Virginia Soil and Water Conservation Board. The bill requires the Board to consider the results of the PMP analysis in its decision of whether to authorize replacement of the current PMP values. The Department of Conservation and Recreation is authorized to expend up to \$500,000 in obligated balances from two agency funds to finance the analysis. The bill contains an emergency clause.

**HB 1173/SB 423. Stormwater management programs; optional for some localities.** Requires the Department of Environmental Quality to establish a Virginia Stormwater Management Program (VSMP) for any locality that neither opts to establish its own program nor operates a municipal separate storm sewer system (MS4). The bill defers the VSMP requirement for six months for certain recent MS4 localities. The bill alters the permitting appeals process and allows for an agreement in lieu of a stormwater management plan, and it directs the State Water Control Board to adopt regulations relating to the issuance of permits for parcels in subdivisions, the registration of single-family residences, and the reciprocity given by Virginia for proprietary Best Management Practices established elsewhere. The bill exempts single-family residences from payment of the Department's portion of the fee for the state general permit. Finally, the bill provides that the consolidation of state post-construction requirements into Virginia's General Permit shall not modify the scope of enforcement of the federal Clean Water Act and exempts from most requirements of the Administrative Process Act those regulations of the State Water Control Board that will be necessary to implement the act.

### *Failed*

**SB 48. Drilling in the Eastern Virginia Groundwater Management Area.** Allows the drilling for oil and gas in the Eastern Virginia Groundwater Management Area

if certain Department of Environmental Quality (DEQ) standards for the protection of groundwater and surface water are met. The Department of Mining, Minerals and Energy (DMME) is not authorized to issue a permit to drill in the Eastern Virginia Groundwater Management Area until DEQ has completed its review of (i) the current surface water and groundwater quality and quantity regulations in the management area and (ii) any amendments to the regulation that are necessary to protect groundwater and surface water.

### *Carried Over*

**HB 461. Coalbed methane gas; release of funds held in escrow or suspense.** Requires the operator of certain previously pooled coalbed methane gas wells to request, by the beginning of 2015, the release of any funds held in escrow or suspense to the person who possesses a claim through a gas title. A coal claimant may halt such a release of funds by providing evidence that the coal and gas claimants have reached an agreement or that a proceeding against the gas claimant is pending. For a well that is pooled after July 1, 2014, the bill requires the operator to pay royalties directly to the gas claimant unless the coal claimant provides evidence of an agreement or a proceeding within a certain time.

## Social Services

### *Passed*

**HB 668/SB 134. Independent living services; individuals between 18 and 21 years of age.** Requires local departments of social services and child-placing agencies to provide independent living services to any person between 18 and 21 years of age who is transitioning from a commitment to the Department of Juvenile Justice to self-sufficiency when such individual was in the custody of the local department of social services immediately prior to his commitment, provides written notice of his intent to receive independent living services, and enters into a written agreement for independent living services with the local board of social services or child-placing agency within 60 days of his release. Currently, local departments and child-placing agencies may but are not required to provide independent living services to such individuals.

**SB 117. Location of methadone clinics near schools and day care centers; exemptions for existing facilities and providers.** Provides 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 provides an exception to location requirements for certain facilities operated by and located with a community services board and located in a city in Planning District 23.

**SB 304. Disposition of dead bodies.** Establishes a process for the disposition of unclaimed dead bodies. The bill contains an emergency clause.

**SB 627. Department of Behavioral Health and Developmental Services; training center residents; quality of care; disclosure.** Requires the Department of Behavioral Health and Developmental Services to provide a training center resident who is to be transferred to another training center or to community-based care with written certification that (i) the receiving training center or community-based option provides a quality of care that is comparable to that provided in the resident's current training center regarding medical, health, developmental, and behavioral care and safety and (ii) all permissible placement options available have been disclosed to the resident. The bill also requires the Department to convene a work group of interested stakeholders to consider options for expanding the number of training centers that remain open, in whole or in part, in the Commonwealth.

### *Failed*

**HB 1135. Sexual orientation change efforts prohibited.** Prohibits any health care provider from engaging in sexual orientation change efforts with any person under 18 years of age. The bill defines "sexual orientation change efforts."

**SB 297. DMAS; work search requirements for newly eligible Medicaid enrollees.** Requires that, if Virginia expands Medicaid eligibility pursuant to the federal Patient Protection and Affordable Care Act, the Department of Medical Assistance Services apply for a waiver of certain Medicaid program requirements to establish a work search requirement for newly eligible working-age unemployed enrollees and to report on its progress to the Governor and the General Assembly by December 1, 2014.

**SB 336. Adoption by person other than spouse of a parent.** Provides that a person other than the spouse of a parent may adopt a child if the child has only one parent, the adoption would not terminate the parental rights of the parent, and the parent joins in the petition for the purpose of indicating his consent.

**SB 437. Child day programs; radon testing.** Requires regulated child day programs that are located in jurisdictions designated by the U.S. Environmental Protection Agency as High or Moderate Risk areas for indoor radon to test for radon at least once every five years, submit the results to the Department of Social Services, and make the results available to the public.

### *Carried Over*

**HB 780. Temporary Assistance for Needy Families (TANF) Program; distribution of benefits; restrictions.** Provides that the Department of Social Services shall distribute TANF benefits only in the form of debit cards or direct deposits into savings or checking accounts and prohibits the distribution of TANF benefits in the form of a paper check. The bill expands restrictions on the use of TANF cash benefits.

**SB 607. Method of execution.** Provides that if the Director of the Department of Corrections certifies that lethal injection is not available as a method of execution, electrocution shall be used instead.

## Taxation

### *Passed*

**HB 156/SB 175. Real property tax exemption for religious bodies.** Clarifies the meaning of real property used exclusively for religious worship for determining the real property tax exemption for religious bodies.

**HB 869/SB 394. Bonds; capital projects at institutions of higher learning.** Authorizes the Treasury Board to issue bonds pursuant to Article X, Section 9 (c) of the Constitution of Virginia in an amount up to \$245,020,705 plus financing costs to finance revenue-producing capital projects at institutions of higher learning. The bill contains an emergency clause.

**HB 975/SB 127. Annual license tax on hybrid electric motor vehicles.** Repeals the \$64 annual license tax on hybrid electric motor vehicles that was first imposed beginning July 1, 2013. The bill also provides for refunds of the license tax paid on hybrid electric motor vehicles for registration years beginning on or after July 1, 2014.

## Transportation

### *Passed*

**HB 311. Revision of Title 33.1.** Creates proposed Title 33.2 (Highways and Other Surface Transportation Systems) as a revision of existing Title 33.1 (Highways,

Bridges and Ferries), as well as portions of Titles 15.2 (Counties, Cities and Towns), 56 (Public Service Companies), and 58.1 (Taxation). Proposed Title 33.2 consists of 32 chapters divided into four subtitles: Subtitle I (General Provisions and Transportation Entities); Subtitle II (Modes of Transportation: Highways, Bridges, Ferries, Rail, and Public Transportation); Subtitle III (Transportation Funding and Development); and Subtitle IV (Local and Regional Transportation). This bill has a delayed effective date of October 1, 2014.

**HB 1253/SB 513. Hampton Roads Transportation Accountability Commission created.** Creates the Hampton Roads Transportation Accountability Commission to manage regional transportation planning in Planning District 23. The bill moves the responsibility for approval of projects and the priority of such projects pursuant to the Hampton Roads Transportation Fund from the Hampton Roads Transportation Planning Organization to the new Commission.

Members of the House of Delegates and Senate of Virginia requesting printed copies of the 2014 *Session Highlights* or other Division of Legislative Services publications, please email [akubincanek@dls.virginia.gov](mailto:akubincanek@dls.virginia.gov).

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