

# Session Highlights

## 2013



The 2013 *Session Highlights* summarizes significant legislation considered by the 2013 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, February 23, 2013.

### Agriculture

#### *Passed*

**HB 1852. Inspection of food establishments and labeling of foods.** Exempts private homes where the resident processes and prepares certain food products from inspection by the Virginia Department of Agriculture and Consumer Services (VDACS) as long as certain labeling criteria is met. The bill also requires a food establishment, food manufacturing plant, food storage warehouse, or retail food store to include on its product labels a statement that the facility has been inspected by VDACS or the owner may be subject to a Class 1 misdemeanor.

#### *Failed*

**HB 1430. Right to Farm Act.** Expands the definition of “agricultural operations” to include the commerce of farm-to-business and farm-to-consumer sales as well as commerce in other related items. The bill would have created a rebuttable presumption that an agricultural operation is in compliance with local zoning ordinances when it operates on property that is zoned agricultural.

**SB 1280. Fox and coyote penning penalty.** Makes it unlawful for any person to (i) stage or participate in any competition where a fox or coyote is

pursued by dogs in an enclosure or (ii) award or accept any prize, money, or compensation resulting from participating in the competition. The bill limits the number of dogs allowed in an enclosure to no more than five per acre. Any person who violates the provisions of the bill is guilty of Class 3 misdemeanor for a first offense, a Class 2 misdemeanor for a second offense, and a Class 1 misdemeanor for a third or subsequent offense.

### Business

#### *Passed*

**HB 1385. Labor organization; right to vote by secret ballot.** Declares that, in any procedure providing for the designation, selection, or authorization of a labor organization to represent employees, the right of an individual employee to vote by secret ballot is a fundamental right that shall be guaranteed from infringement.

**HB 1769/SB 922. Health insurance; plan management and rate review.** Authorizes the State Corporation Commission to perform, and the Virginia Department of Health to assist in, plan management functions for participation in the federal health benefit exchange, contingent on certain conditions being met. The bills stipulate that the performance of plan

#### Table of Contents

Agriculture	1
Business	1
Constitution	2
Courts/Civil Law	2
Criminal Justice	3
Education	3
Elections	4
FOIA	4
General Laws	5
Health	5
Housing	6
Motor Vehicles	6
Natural Resources	6
Social Services	7
Taxation	7
Transportation	7



management functions is not deemed to establish a health benefit exchange pursuant to the Patient Protection and Affordable Care Act.

**HB 1900/SB 921. Health insurance reform.** Revises Virginia's laws pertaining to the regulation of health insurance and related products in order to be consistent with relevant requirements of the federal Patient Protection and Affordable Care Act that become effective on January 1, 2014.

**HB 2261. Electric utility ratemaking.** Revises certain incentives and other provisions applicable to investor-owned electric utilities under the 2007 re-regulation legislation.

### ***Failed***

**HB 1612. Workers' compensation; fee schedule for medical care services and prompt payment.** Limits the pecuniary liability of an employer for medical, surgical, and hospital services provided on or after October 1, 2014, 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.

## **Constitutional Amendments**

### ***Passed***

**HJ 551. Constitutional amendment (first resolution); real property tax exemption for spouses of soldiers killed in action.** Provides that the General Assembly may establish a real property tax exemption for the primary residence of surviving spouses of members of the military who are killed in action.

### ***Failed***

**HJ 909. Constitutional amendment (first resolution); Transportation Funds.** Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, and other funds established by general law for transportation. Numerous resolutions on this subject were introduced in both houses and failed.

**SJ 266. Constitutional amendment (first resolution); restoration of voting rights.** Provides that a person convicted of a nonviolent felony, as defined by the General Assembly, who has completed service of his sentence and paid in full any restitution, fines, costs, and fees assessed against him shall be qualified to vote. Numerous resolutions on this subject were introduced in both houses and failed.

## **Courts & Civil Law**

### ***Passed***

**HB 1637/SB 1076. Restoration of parental rights.** Creates a procedure for restoring parental rights to a parent whose rights to his child have previously been terminated when the child is at least 14 years of age and the child has not achieved his permanency goal.

**HB 1642/SB 908. Parental rights.** Provides that parents have a fundamental right to make decisions concerning the upbringing, education, and care of their children.

**HB 1752/SB 913. Powers of personal representatives; digital accounts.** Provides that the personal representative of a deceased minor may ratify the deceased minor's terms of service agreement with an Internet service provider, communications service provider, or other online account service provider for purposes of consenting to and obtaining the disclosure of the contents of the deceased minor's digital assets.

**Tort Reform.** The General Assembly passed several bills as part of a package of legislation designed to reform the Commonwealth's tort laws.

### ***Failed***

**HB 1375. Customer access to restrooms.** Requires a retail establishment with a restroom to allow customers with certain medical conditions the use of the restroom during normal business hours if certain conditions are met.

**HB 1483. District court; record on appeal.** Provides that upon the appeal of a general district court or juvenile and domestic relations district court judgment in a civil case to circuit court,

except cases involving protective orders or a civil offense for a person's refusal to submit to having blood or breath samples taken, only the pleadings filed in the case shall be transmitted to the circuit court.

## Criminal Justice

### ***Passed***

**HB 1432. Writ of actual innocence.** Revises one of the allegations necessary to a petition for a writ of actual innocence from “[the evidence] will prove that no rational trier of fact *could* have found proof of guilt beyond a reasonable doubt” to “[the evidence] will prove that no rational trier of fact *would* have found proof of guilt beyond a reasonable doubt.”

**HB 1582. Armed security officers; protection of schools and child day centers.** Permits an armed security officer licensed by the Department of Criminal Justice Services to carry firearms onto private or religious school property if the officer is hired by the private or religious school to provide protection to students and employees. The bill also prohibits the Board of Social Services from adopting any regulations that would prevent a child day center from hiring an armed security officer.

**HB 1746/SB 1214. Sentencing guidelines; definition of violent felony.** Adds numerous items to the list of violent felonies.

**HB 1907/SB 1222. Driving while texting; primary offense; increased penalties.** Provides that driving while texting is a traffic infraction punishable, for a first offense, by a fine of \$250 and, for a second or subsequent offense, by a fine of \$500. The bills also increase the punishment of any person convicted of reckless driving to include a \$500 mandatory minimum fine if the person was texting at the time of the reckless driving offense and make other changes.

**HB 2012/SB 1331. Drones.** Places a moratorium on the use of unmanned aircraft systems by state and local law enforcement and regulatory entities until July 1, 2015, except in defined emergency situations.

**HB 2269/SB 832. Pornography; mandatory minimum sentence.** Provides that the sentence of a person convicted of certain pornography offenses that carry a five-year mandatory minimum term must serve that term consecutively with any other sentence imposed. The offenses include a second offense involving the reproduction, transmission, or distribution of child pornography or the solicitation of child pornography in order to gain entry into a group engaged in trading or sharing child pornography.

### ***Failed***

**HB 2207. Assault firearms and firearms magazines.** Provides that a person who imports, sells, barter, or transfers an assault firearm is guilty of a Class 6 felony. The bill also provides that a person who imports, sells, barter, or transfers a firearms magazine that is designed to hold more than 20 rounds of ammunition is guilty of a Class 1 misdemeanor.

**SB 1001. Transfer of firearms; criminal history records check.** Requires that only dealers can sell firearms at firearms shows.

**SB 1372. Firearm shows; Virginia State Police.** Requires the Department of State Police to be available to perform background checks for non-dealer sales at gun shows if a party in the transaction requests one.

## Education

### ***Passed***

**HB 1871. Student and school employee conduct; bullying.** Requires school boards to include in their student conduct codes policies and procedures that prohibit bullying. The bill also requires the Board of Education to develop model policies and procedures and school boards to adopt policies and procedures to educate school board employees about the need to create a bully-free environment.

**HB 2028/SB 986. Public schools; cardiopulmonary resuscitation and automated external defibrillators.** Allows school boards to require current certification or training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AEDs) for

bus drivers; increases required school personnel with the training per school; and requires the training for those seeking initial teacher licensure, renewal of a license to teach, or a provisional teaching license with a waiver for disabilities. For students, beginning with first-time ninth grade students in the 2016-2017 school year, the bills add a requirement that recipients of the standard and advanced diplomas must receive training in emergency first aid, CPR, and the use of AEDs with a waiver for students with disabilities. The bill also provides that local school boards may develop a plan to allow for AEDs in every school.

**HB 2151/SB 1223. Public schools; evaluation policies and grievance procedures.** Makes several changes to the processes by which teachers and certain administrators are evaluated and to grievance procedures.

### ***Failed***

**HB 1442. 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 students who meet certain criteria.

**HB 1467. School calendar.** Makes local school boards responsible for setting the school calendar and determining the opening day of the school year.

**HB 1525. In-state tuition.** Specifies the criteria for eligibility for in-state tuition for those who qualify for Deferred Action for Childhood Arrivals.

## **Elections**

### ***Passed***

**HB 1337. Elections; polling place procedures; voter identification requirements.** Removes several items from the list of acceptable identification documents that a voter must present when voting at the polls on election day. The bill also requires that all forms of acceptable identification contain a photograph of the voter or the voter's name and address. The bill has a delayed effective date of July 1, 2014, and its provisions are contingent upon funding being included in a

general appropriation act passed by the 2014 Session of the General Assembly.

**HB 1346. Presidential elections and primaries; petition requirements.** Reduces the number of signatures required for groups other than the major parties to gain access to the presidential election ballot from 10,000 to 5,000 signatures in the Commonwealth and from 400 to 200 signatures in each congressional district. The bills make similar reductions to 5,000 and 200 in the number of signatures required for a person to qualify for a presidential primary ballot.

**SB 1256. Voter identification requirements; photo ID.** Requires photo ID at the polls. The bill also adds a valid United States passport to the list of acceptable identification and requires that a student identification card issued by an institution of higher education in the Commonwealth contain a photograph in order to be used by a voter. The bill does not affect the right of a voter who does not present one of the required forms of identification to cast a provisional ballot. The bill also provides that the State Board shall provide free voter registration cards that contain a voter's photograph and signature if the voter does not possess other satisfactory photo ID. The bill has a delayed effective date of July 1, 2014, and its provisions are contingent upon funding being included in a general appropriation act passed by the 2013 Session of the General Assembly.

### ***Failed***

**HB 1353. Elections; absentee voting.** Provides that qualified voters may vote absentee in person without providing an excuse or reason for not being able to vote in person on election day. The bill retains the present statutory list of specific reasons entitling a voter to cast an absentee ballot for those persons who vote absentee by mail. Several other related bills failed.

## **Freedom of Information Act**

### ***Passed***

**HB 1639. Virginia Freedom of Information Act; correspondence of legislative aides exempt.** Clarifies by defining "member of the General Assembly" that the working papers and corre-

spondence of the legislative aides of members of the General Assembly are not subject to the mandatory disclosure provisions of FOIA when the aides are working on behalf of the member.

**SB 1263. Virginia Freedom of Information Act; advisory public body.** Authorizes an advisory public body to meet electronically provided certain conditions are met. The bill allows a member of any public body to participate in a meeting by electronic communication means due to personal matters under certain circumstances.

**SB 1264. Virginia Freedom of Information Act; state law-enforcement agencies.** Expands to state law-enforcement agencies the ability to withhold portions of noncriminal incident information and allows law-enforcement agencies to make a verbal response for requests for criminal incident information.

## General Laws

### *Passed*

**HB 1649. Pawnbrokers and precious metals dealers.** Requires pawnbrokers and precious metals dealers to take a digital image of the form of identification used by the person involved in the transaction. The bill also prohibits a pawnbroker from pawning or accepting goods or articles if the original serial number affixed to the good or article has been removed, defaced, or altered.

**HB 2114/SB 1176. State Inspector General.** Grants additional powers to the State Inspector General relating to audit functions of state and nonstate agencies and provides that the State Inspector General and no more than 30 members of the investigative unit shall be law-enforcement officers. The bills require the State Inspector General to enter into a memorandum of understanding with the Department of State Police relative to their respective roles and responsibilities. The bills reorganize the State Inspector General's powers and duties and generally reorganize the law relating to the Office of the State Inspector General.

**HB 2276/SB 1305. Virginia Port Authority.** Implements reforms of the Virginia Port Authority and prevents the Commonwealth and the Virginia

Port Authority from accepting any unsolicited proposal under the Public-Private Transportation Act or the Public-Private Education Facilities and Infrastructure Act regarding the ownership or operation of any seaport or port facility. The bills grant the powers of industrial development authorities to the Virginia Port Authority, except for the power to sell or convey the port facilities, and exempt the port from various purchasing and procurement requirements.

**SB 1215. Conflict of Interest; revolving door for state employees.** Provides that certain former employees of state agencies must wait one year before representing clients for compensation before their agencies in matters involving regulatory review by the agencies.

### *Failed*

**HB 1823. Public procurement; posting by local public bodies of procurement opportunities.** Requires local public bodies to post certain required procurement notices on the Department of General Services' central electronic procurement website and makes newspaper publication or posting on other appropriate websites optional.

**SB 781. Virginia Public Procurement Act; women-owned and minority-owned businesses; remedial measures.** Provides that the Governor shall require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law when a persuasive analysis exists that documents statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses.

## Health

### *Passed*

**HB 1422/SB 1285. Dispensing of interchangeable biosimilar biological products.** Permits pharmacists to dispense a biosimilar that has been licensed by the U.S. Food and Drug Administration as interchangeable with a prescribed biological product unless the prescriber indicates the substitution is not authorized or the patient insists on dispensing of the prescribed biological product.

**HB 1933. Lyme disease; disclosure of information to patients.** Requires the Department of Health to update its website to contain a notice regarding the accuracy of lab tests for Lyme disease and the potential for false negative results of such testing, and to make such information available to physicians in the Commonwealth for distribution to patients. The bill has an expiration date of July 1, 2015.

**SB 933. Movable Soccer Goal Safety Act created.** Requires every organization that owns and controls a movable soccer goal to establish a soccer goal safety and education policy that outlines how the organization will address safety concerns related to movable soccer goals. The bill prohibits the sale of movable soccer goals that are not tip-resistant beginning July 1, 2014; instructs the Board of Health to provide technical assistance for improving soccer goal safety; and establishes a stakeholder work group. The bill must be reenacted by the 2014 Session of the General Assembly to become effective.

### *Failed*

**HB 1614. Immunizations; human papillomavirus vaccine required for all children.** Requires all children, not just females, to be vaccinated against human papillomavirus.

## Housing

### *Passed*

**HB 2005. Virginia Housing Partnership Revolving Fund.** Renames the Virginia Housing Partnership Revolving Fund to the Virginia Housing Trust Fund and codifies language in the latest appropriation act in which \$7 million was appropriated to the Fund.

**HB 2305. Solar panels in community associations.** Clarifies that a community association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use.

**SB 1013. Landlord and tenant laws.** Provides that an occupant in a hotel, motel, extended stay facility, vacation residential facility, boarding

house, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit under landlord and tenant laws or the Virginia Residential Landlord Tenant Act.

## Motor Vehicles

### *Passed*

**SB 1038. Non-conventional vehicles.** Provides for the titling and registration of mopeds and distinctive license plates for low-speed vehicles. The bill also requires a moped operator to carry government-issued photo identification and wear a face shield, safety glasses, or goggles if his moped does not have a safety glass or windshield. The bill makes all-terrain vehicles, mopeds, and off-road motorcycles subject to the motor vehicles sales and use tax and exempts them from the retail sales and use tax. The bill classifies mopeds for valuation purposes in personal property taxation and allows localities to exempt mopeds from personal property taxation.

**SB 1039. Access to vital records.** Provides for the Department of Motor Vehicles to issue certified copies of vital records.

**SB 1219. Motor carrier and commercial driver's licensing.** Amends several motor carrier and commercial driver's licensing laws.

## Natural Resources

### *Passed*

**HB 2048/SB 1279. Consolidation of water quality programs.** Moves several water quality programs currently administered by the Department of Conservation and Recreation to the Department of Environmental Quality.

**HB 2254/SB1291. Management of the menhaden fishery.** Establishes a total allowable landings of 144,272.84 metric tons per year for Atlantic menhaden landed in Virginia by the purse seine menhaden reduction sector, the purse seine menhaden bait sector, and the non-purse seine menhaden bait sector, which represents a 20 percent reduction from the average 2009 - 2011 landings. The legislation authorizes the Commis-

sion to establish and administer a limited entry purse seine menhaden bait license according to specific criteria, establishes a biological sampling program, and makes other related changes.

**SB 1117. Watercraft titling certificates.** Repeals Virginia's existing watercraft titling law and enacts in its place the Uniform Certificate of Title for Vessels Act as adopted in 2011 by the National Conference of Commissioners on Uniform State Laws.

### *Failed*

**SB 1353. Uranium mining.** Allows the Department of Mines, Minerals and Energy to issue permits for the mining of uranium ore.

## Social Services

### *Passed*

**HB 1577/SB 1180. TANF; restrictions on use of cash benefits.** Prohibits the use of Temporary Assistance for Needy Families benefits for certain purchases or in certain establishments.

## Taxation

### *Passed*

**HB 1923. Worker retraining tax credit.** Increases the worker retraining tax credit for worker retraining courses taken by employees at private schools.

**HB 2047. Long-term health care insurance tax credit.** Repeals the long-term health care insurance tax credit for taxable years beginning on or after January 1, 2014. The bill would not repeal the income tax deduction for long-term health care insurance premiums paid by an individual.

**HB 2167. Individual income tax deductions; life, medical, and dental insurance premiums.** Provides that beginning January 1, 2013, an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year is allowed to deduct the amount he pays annually for (i) a prepaid funeral insurance policy that covers him or (ii) medical or dental insurance premiums for any person for whom individual tax

filers may claim a deduction for such premiums under federal income tax laws.

**HB 2313. Revenues primarily for transportation.** Increases appropriations for transportation by increasing the state sales and use taxes and motor vehicle titling taxes that would apply throughout the Commonwealth. The bill also establishes additional state taxes in Northern Virginia and Hampton Roads to fund transportation. The bill changes the motor fuels taxes from a fixed cents per gallon rate to a percentage tax.

**SB 1296. Unclaimed tax credits.** Declares a tax credit obsolete if it has not been claimed by any taxpayer within five calendar years.

### *Failed*

**SB 767. Retail sales and transient occupancy taxes on room rentals.** Provides that retail sales and hotel taxes on transient room rentals are computed based upon the total charges or the total price paid for the use or possession of the room.

**SB 1311. County food and beverage tax.** Adds to the list of counties that may collect a food and beverage tax (i) counties that have withdrawn from the secondary state highway system and therefore maintain their own roads and are adjacent to a city that also operates its own road system and (ii) chartered counties that do not currently impose a food and beverage tax.

## Transportation

### *Passed*

**HB 1692/SB 977. Public-Private Transportation Act of 1995.** Requires public entities to post a notice, when they receive a proposal under the PPTA, and allow a 120-day submission period for competing proposals. The bills require the notice to include certain information and that after negotiations are complete and a decision to award is made, the public entity post the major business points of the agreement and outline how the public can submit comments.

### *Failed*

**HB 1302. Tolling fees.** Prevents the Department of Transportation from charging monthly fees for

the automatic electronic tolling payment program and its transponders.

**HB 1691. Virginia Port Authority.** Prevents the Commonwealth and the Virginia Port Authority from accepting any unsolicited proposal under the Public-Private Transportation Act or the Public-Private Education Facilities and Infrastructure Act regarding the ownership or operation of any seaport or port facility.

**HB 2049. Commonwealth Transportation Board.** Increases the total membership of the Commonwealth Transportation Board from 17 to 20 members by doubling the representation for the Richmond, Hampton Roads, and Northern Virginia highway construction districts.

Members of the House of Delegates and Senate of Virginia requesting multiple copies of the 2013 *Session Highlights* or other Division of Legislative Services publications, please email [mtanner@dls.virginia.gov](mailto:mtanner@dls.virginia.gov).

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