

*Key Bills for  
Planners:*

*Virginia General Assembly  
2010 Session*



American Planning Association  
**Virginia Chapter**

*Making Great Communities Happen*

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CONSULTANTS

## INTRODUCTION

This report provides a compendium of the bills that passed the 2010 Session of the Virginia General Assembly and were signed into law by the Governor. The listings are categorized and as some legislation is of broad interest, some bills may be listed in multiple categories in order to aid in the usefulness of the report. Where relevant, the Code of Virginia sections amended are noted, however please be aware that there are occasions when the Virginia Code Commission moves language to a different section than that initially proposed by the patron.

Some of these provisions will require a change in local codes and ordinances while others are applicable upon their effective date without action by localities. Much depends upon the structure of local codes so local government attorneys should be consulted early and often in this process.

This report is produced as a direct service to the members of the Virginia Chapter of the American Planning Association and paid for by the members' dues.

## VIRGINIA CHAPTER OF THE AMERICAN PLANNING ASSOCIATION

### **Our Mission:**

We promote planning as the foundation for effectively addressing the physical, economic and social changes taking place in Virginia. The Virginia Chapter of the American Planning Association (APA Virginia) is committed to increasing awareness about planning's many benefits, and enhancing its practice throughout the Commonwealth.

### **Who We Are:**

APA Virginia is over 1,500 practicing professionals from the public and private sector, as well as academics and students. The American Planning Association (APA) is a nonprofit public interest and research organization committed to urban, suburban, regional, and rural planning. APA and its professional institute, the American Institute of Certified Planners (AICP), advance the art and science of planning to meet the needs of people and society.

### **Making Great Communities Happen:**

APA Virginia will support state-level planning policies that make Virginia and its communities the best place to live, work and play. Sound planning offers a key to making Virginia the best place it can be for all Virginians. Every region requires planning that promotes good jobs in livable communities. Faster growing regions have the added need for planning that recognizes pressures that are unprecedented in Virginia's history. Good planning actively involves the people of a community in the process; it combines their input on what is "valuable" for a good community with the technical facts brought by professionals and scientists. Sound planning includes an understanding of the differences between technical and value judgments and blends both appropriately to recommend a direction that moves a community toward the best place it can be for its citizens.

## 2010 Legislative Session – Final Report

Building Codes & Standards	1
Housing	2
Land Conservation, Open Spaces, Park Lands, PDRs	5
Land Use & Growth Management	6
Transportation	11
Water Resources & Environment	17
Other	20

Prepared by:



American Planning Association  
**Virginia Chapter**

*Making Great Communities Happen*



April 26, 2010

Using this report: Bills and Resolutions listed are generally limited to those that have received favorable action. A few bills that did not pass are included because they were of particular interest; they are so noted. Resolutions do not require action by the Governor, once passed by the Assembly the action is final. If you are viewing this document on a computer screen you should be able to click on the bill number and link to the bill on the General Assembly's Legislative Information System.

## **BUILDING CODES & STANDARDS**

### **HB 312 Building Code; appeals to local board and State Technical Review Board.**

Clarifies that any person aggrieved by a local building official's application of the Uniform Statewide Building Code may appeal to the local board of Building Code appeals. The bill also provides the State Technical Review Board has authority to hear appeals from decisions arising under application of the Virginia Manufactured Housing Construction and Safety Standards Law and the Virginia Certification Standards adopted by the Board of Housing and Community Development.

*Patrons:* McClellan, McQuinn and Tyler

**HB 517 Uniform Statewide Building Code; court may order violations on nonresidential buildings be abated.** Provides that a court may order violations of the Uniform Statewide Building Code on nonresidential buildings or structures be abated or otherwise remedied if the violations have not previously been remedied by the time the court is authorized to assess civil penalties. Currently the court is required to order abatement for residential buildings or structures but is not authorized to do so if the building or structure is nonresidential.

*Patron:* Rust

**HB 687 Uniform Statewide Building Code; increases civil penalty.** Increases the civil penalty for a second or subsequent violations from \$150 to \$350 and the total for violations arising from the same operative set of facts from \$3,000 to \$4,000. HB 299 and HB 493 have been incorporated into this bill.

*Patrons:* Miller, J.H. and Torian

**HB 954 Uniform Statewide Building Code; rental inspections, penalty.** Increases the penalty for the willful failure of an owner of a dwelling unit, who is using the dwelling unit for residential rental purposes, to provide written notification of the residential rentals to the local governing body from a maximum of \$50 to a maximum of \$250.

*Patron:* Howell, A.T.

Passed by in General Laws with letter

**HB 1260 Uniform Statewide Building Code; buildings or structures built on state-owned property.** Provides that the Uniform Statewide Building Code shall also apply to buildings or structures built on state-owned property. The bill requires the Department of General Services to act as the building official for all buildings or structures built on state-owned property. The bill provides that the Building Code shall not apply to uninhabitable structures, equipment, or wiring owned by a public service company, a certificated provider of telecommunications services, or a franchised cable operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation Board.

*Patron:* Brink

## **HOUSING**

**HB 16 Constitutional amendment; localities to establish either income or financial worth limitations.** Provides for a referendum at the November 2010 election on the approval of a proposed constitutional amendment relating to property exempt from taxation. The proposed amendment allows the General Assembly to authorize localities to establish their own income or financial worth limitations for purposes of granting property tax relief for homeowners not less than 65 years of age or permanently and totally disabled. The Constitution presently requires a showing that the homeowners granted property tax relief bear an extraordinary tax burden on the property in relation to their income or financial worth as provided by the General Assembly by state law. This bill is identical to SB 547 (Barker).

*Patrons:* Cole, Albo, Athey, Bell, Robert B., Edmunds, Gilbert and Lingamfelter

**HB 44 Fire or homeowners insurance policy; coverage for damages or replacement of Chinese drywall.** Declares that exclusions in an insurance policy on an owner-occupied dwelling for property damage from environmental pollution or from defects in material, construction, or design or from deterioration shall not be construed in a manner that limits or excludes coverage for property damage resulting from sulfur compounds released from Chinese drywall or for the replacement of the Chinese drywall. The measure also provides that an insurance policy is not subject to cancellation on grounds that the dwelling is vacant or unoccupied beyond a period of 60 consecutive days if the dwelling's vacancy is due to either (i) work to remove or replace Chinese drywall or (ii) the dwelling posing a substantial risk to human health as a result of gas released from the Chinese drywall. The measure will be in force from its passage.

*Patron:* Oder

Passed by in Commerce and Labor with letter

**HB 213 Residential Landlord and Tenant Act and Landlord and Tenant law; definition of landlord.** Provides that the definition of landlord in the Virginia Residential Landlord and Tenant Act and the Landlord and Tenant law does not include community land trust. The bill defines a community land trust.

*Patron:* Toscano

**HB 233 Affordable housing units; assessments.** Provides that assessments for certain affordable housing units be done according to the income approach, based on the property's current use and restrictions. This bill is a recommendation of the Virginia Housing Commission. The bill is effective for assessments for tax years beginning on or after January 1, 2011.

*Patrons:* Dance, Herring, James, Marshall, D.W. and Torian

**HB 960 Local or regional housing fund; locality may establish to make grants to housing sponsors, etc.** Provides that any locality may establish by resolution a housing fund, the purpose of which will be to assist for-profit or nonprofit housing developers or organizations to develop or preserve affordable housing for low and moderate income persons.

*Patrons:* Ingram, Dance, Herring, Surovell, Toscano and Ware, O.

Senate: Subject matter referred by letter to the Virginia Housing Commission pursuant to Senate Rule 20(L)

**HB 967/SB 338 Assisted living facility and group home; no more than 8 aged, infirmed, etc., persons shall reside.** Expands certain provisions that currently apply to the Counties of Arlington and York statewide. The existing provisions declare that zoning ordinances for all purposes shall consider a residential facility in which no more than eight elderly or disabled persons reside with one or more resident counselors or other staff persons as residential occupancy by a single family.

*Patron:* (HB967) Peace; (SB338) Hanger

**SB 262 Aging, Department for; publicize guidelines on universal design and visitability features.** Requires the Department for the Aging to publicize guidelines on universal design and visitability features to make structures and dwellings accessible for older Virginians and people who develop mobility impairment. The guidelines are also required to be disseminated to the public and posted on the Department's website.

*Patron:* Whipple

**SB 458 Income tax credits; landlords participating in housing choice voucher programs.** Establishes an individual and corporate income tax credit beginning with the 2010 taxable year for landlords who participate in a housing choice voucher program. Eligible landlords would receive a tax credit equal to 10 percent of the fair market value of the rent for each qualified housing unit. Qualified housing units would be dwelling units located in a census tract in the Richmond Metropolitan Statistical Area in which less than 10 percent of the residents live below the poverty level.

The Department of Housing and Community Development would administer the tax credit. The Department would not be allowed to issue more than \$450,000 in tax credits in any fiscal year. Tax credits would be allowed only for that portion of the taxable year in which a dwelling unit was included in a housing choice voucher program. The bill provides a five-year carryforward period for unused tax credits.

*Patron:* McEachin

**SB 633 Neighborhood assistance tax credits; changes definition of impoverished people.** Changes the definition of "impoverished people" for education proposals under the Neighborhood Assistance Act Tax Credit program from 180 percent to 200 percent of the current federal poverty guidelines. As a condition of eligibility for a neighborhood assistance tax credit, current law requires that at least 50 percent of the persons served by a neighborhood organization are impoverished people.

*Patrons:* Stosch, Hanger and Wampler

#### **LAND CONSERVATION, OPEN SPACE, PARKS AND PDRs**

**HB 141 Land preservation tax credit; nonprofit organizations holding easements**

**are ineligible to receive.** Provides that only those nonprofit organizations that hold a conservation easement acquired pursuant to the Virginia Conservation Easement Act are ineligible to receive land preservation tax credits for donations of qualifying real property.

*Patron:* Pollard

**HB 447/SB 264 Income tax, state; remainder of revenues transferred to Land Conservation Fund for distribution.** Removes the \$10,000 cap on the 2 percent fee imposed on the transfer arising from the sale of land conservation tax credits and directs up to 50 percent of revenues be paid to the Department of Taxation and the Department of Conservation and Recreation first. The remaining revenues will be transferred to the Virginia Land Conservation Fund for distribution to the public or private conservation agencies responsible for enforcing the conservation purposes of the donated interest.

*Patrons:* (HB447) Ware, R.L., Keam, May and Torian; (SB264) Whipple

**SB 81 Agricultural, forestal, or agricultural and forestal districts; use value assessment.** Provides that certain noncontiguous real property may be included as part of an agricultural, forestal, or agricultural and forestal district. Any noncontiguous real property included as part of an agricultural, forestal, or agricultural and forestal district would be deemed to be contiguous to any other real property located in such district for purposes of use value assessment.

*Patron:* Howell

**SB 233 Income tax, corporate and individual; credit for land conservation.** Reduces from \$100,000 to \$50,000 the amount of the land preservation tax credit that may be claimed for taxable year 2011. Any taxpayer affected by the credit reduction would be allowed an additional taxable year in which to claim the land preservation tax credit.

*Patron:* Watkins

**SB 341 Land preservation tax credit; DCR to provide estimate of land used for production agriculture, etc.** Requires the Department of Conservation & Recreation, when preparing its annual report, to consult with the Department of Taxation and the Departments of Forestry and Agriculture & Consumer Services to provide an estimate of the number of acres of land currently being used for

"production agriculture and silviculture" that have been protected by qualified donations of less-than fee interests.

*Patron:* Hanger

**SB 346 Land conservation practices; information management.** Requires the Secretary of Natural Resources, with assistance from the Secretary of Agriculture and Forestry, to establish and maintain a database of the critical data attributes for onsite best management practices that limit the amount of nutrients and sediment entering state waters. The database is intended to document voluntary actions taken by the agricultural and silvicultural sectors and should enable the application of the collected data towards projections of progress towards Virginia's water quality goals. The bill declares that an emergency exists and that the bill is effective upon passage (March 13, 2010).

*Patron:* Hanger

**SB 661 Land preservation tax credit; verification of conservation value of certain donations.** Requires the Director of the DCR to verify the conservation value of certain donations described under the Virginia Land Conservation Incentives Act of 1999 that are from the same parcel of land if the land preservation tax credit from the donation would be at least \$250,000.

*Patron:* Hanger

### **LAND USE & GROWTH MANAGEMENT**

**HB 51 Comprehensive plan amendment; grants authority to local government to prepare & submit to public hearing.** Grants authority to a governing body to prepare an amendment to the comprehensive plan rather than directing the planning commission to do so. If a planning commission fails to make a recommendation on a proposed amendment within the designated time frame, the local governing body may proceed to submit the proposal to a public hearing.

*Patron:* Cole

**HB 197 Secondary highway system; requirements for taking new streets into system.** Provides that any street or segment of a street within a network addition that meets one or more of the public service requirements addressed in the regulations can be accepted into the secondary system, provided that the

network addition satisfies all other requirements adopted pursuant to this section. In cases where a majority of the lots along the street or street segment remain undeveloped and construction traffic is expected to utilize that street or street segment after acceptance, the bonding requirement for such street or street segment may be required by VDOT to be extended for up to one year beyond that required in the secondary street acceptance requirements.

*Patron:* Ware, R.L.

**HB 209 Outdoor signs and advertising; penalties collected for violations of provisions.** Provides that all penalties and costs collected for violations of advertising provisions when the locality has entered into an agreement with the Commonwealth Transportation Commissioner shall be paid to the affected locality. Excludes signs and advertising erected only from Saturday through the following Monday from those agreements with the Commissioner.

*Patrons:* Bulova, Keam, Kory, Scott, J.M. and Watts; Senators: Barker, Petersen, Ticer and Whipple

**HB 263 Grass; adds City of Winchester to list of localities authorized to require cutting.** Adds Winchester to the list of localities that may order the cutting of grass and weeds on certain occupied property. The existing portion of the statute that includes all localities applies to vacant property only.

*Patron:* Sherwood

**HB 297/SB 246 Noise ordinance; authorizes governing body to adopt civil penalties.** Authorizes the governing body of a locality to adopt civil penalties for violations of noise ordinances. Civil fines will not exceed \$250 for the first offense and \$500 for each subsequent offense.

*Patrons:* (HB297) Cosgrove, Dance and Ware, O.; (SB246) Watkins

**HB 374/SB 632 Cash proffers; collected or accepted by locality after completion of final inspection.** Delays collection or acceptance of a cash proffer by a locality until the completion of the final inspection of the subject property and prior to the time of the issuance of any certificate of occupancy.

*Patrons:* (HB374) Cosgrove and Knight; (SB632) Obenshain

**HB 552 Vested rights; includes right to replace existing on-site sewage system.** Includes the right to replace failed septic systems under vested rights protection. Also, if the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal.

*Patrons:* Marshall, D.W. and Knight

**HB 553/SB 64 Signs; provides local government authority to regulate.** Allows county employees and volunteers who are acting as agents of the Commonwealth Transportation Commissioner to remove and confiscate signs from the public right-of-way. If a sign is confiscated by an employee or volunteer, the sign owner shall have the right to reclaim the sign within 10 business days of the date of such confiscation. Finally, the legislation clarifies that a sign installed (on private property) that does not require use of tools or equipment does not trigger the requirement to call Miss Utility before installing the sign.

*Patron:* (HB553) Marshall, D.W.; (SB64) Lucas

**HB 582/SB 347 Center for Rural Virginia; expansion and promotion of agricultural opportunities.** Provides the Center for Rural Virginia with the additional authority to facilitate the development of incentives and to provide a forum for competing interests to allow for job creation and expanded economic opportunities for farm businesses and rural enterprises while ensuring the rights of localities to develop reasonable regulations of such farm businesses and rural enterprises to protect the health, safety and welfare of residents. The Center will also convene a task force comprised of representatives of local government and agricultural interests to examine and make recommendations on issues related to the expansion and promotion of farm businesses or rural enterprises over the upcoming year. (APA Virginia Chapter is specifically listed as a participant).

*Patron:* (HB582) Landes; (SB347) Hanger and Hurt

**HB 882 Development rights; permitted to be attached in receiving areas to be equal or greater than rights.** Allows localities to establish a density bonus that would permit certain property owners to transfer more property rights than the existing density would otherwise allow.

*Patron: Athey*

**HB 967/SB 338 Assisted living facility and group home; no more than 8 aged, infirmed, etc., persons shall reside.** Expands certain provisions that currently apply to the Counties of Arlington and York statewide. The existing provisions declare that zoning ordinances for all purposes shall consider a residential facility in which no more than eight elderly or disabled persons reside with one or more resident counselors or other staff persons as residential occupancy by a single family.

*Patron: (HB967) Peace; (SB338) Hanger*

**HB 1063 Zoning appeals, board of; fee for filing appeal by person aggrieved by decision, etc.** Provides that written notice of a zoning violation or a written order of the zoning administrator shall include the applicable appeal fee and a reference to where other information regarding the appeal process may be obtained. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs to process the appeal. Additionally, in an appeal of a decision of the board of zoning appeals (BZA), the BZA shall not be named as a party to the proceedings.

*Patrons: Athey and Abbott*

**HB 1071/SB 420 Urban development; sets certain densities in areas according to population of locality.** Sets certain densities in urban development areas according to the population of the locality that designated the urban development area. The two tiers created are for localities under 130,000 population and those over. The bill also requires that, to the extent possible, certain federal funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. The bill mandates that the Commission on Local Government report on localities' compliance with the statute requiring the designation of urban development areas.

*Patron: (HB1071) Athey; (SB420) Vogel*

**HB 1250 Vested rights; issuance of written order, etc., by zoning administrator regarding use of property.** Provides that the issuance of any written order, requirement, decision, or determination by the zoning administrator regarding the permissibility of a specific use or density of the landowner's property that is

no longer subject to appeal, change, modification, or reversal (under subsection C of 15.2-2311) shall be considered a significant affirmative governmental act for purposes of determining vested rights.

*Patrons:* Knight, Cosgrove, Howell, A.T., Iaquinto, Ingram, Marshall, D.W., Merricks, Oder, Poindexter and Stolle

**HB 1307 Family healthcare; zoning provisions for temporary structures.**

Provides that zoning ordinances for all purposes shall consider temporary family healthcare structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver at his residence as a permitted accessory use in any single-family residential zoning district. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring. The structure shall be no more than 300 square feet.

*Patrons:* Griffith, Edmunds, Surovell and Wright

**HB 1348 Subdivision ordinance; designated administrative agency means planning commission of locality, etc.** Provides that with regard to approval by a locality of surety provided by a developer, "designated administrative agency" means the planning commission of the locality or an agent designated by the governing body of the locality for such purpose.

*Patron:* Lingamfelter

**HJ 135/SJ 89 Development and Land Use Tools in State's Localities, Joint Subcommittee Studying; continued.** Continues the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities for one year to examine and monitor the transition to channeling development into Urban Development Areas and determine if additional legislation is needed to help localities as they transition to Urban Development Areas. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate. Identical to SJR89

*Patron:* (HJ135) Athey; (SJ89) Vogel

**SB 222 Land use proposals; exempts localities and citizens' organization from payment of certain VDOT fees.** Exempts localities, public agencies, and citizens' groups from payment of certain Department fees for review of land use proposals.

*Patrons:* Puller; Delegate: Surovell

**SB 318 Subdivision ordinance; dedication of public improvements.** Expands the manner by which a developer may provide financial assurances to a locality prior to a locality accepting the dedication of public improvements by allowing given the acceptance of evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the governing body or its designated administrative agency.

*Patron:* Ruff

**SB 645 Electric transmission lines; prohibits SCC approving agreements for underground installation.** Prohibits the State Corporation Commission from approving an agreement between a local governing body and an electric utility for the underground installation of an electric transmission line of at least 150 kilovolts if a feasible overhead alternative exists, unless all localities in which the line passes request that the line be installed underground.

*Patron:* Watkins

## **TRANSPORTATION**

**HB 42 Transportation programs; JLARC to administer a performance audit, report.** Requires JLARC to administer a performance audit of the Commonwealth's transportation programs. JLARC shall issue an RFP to initiate the procurement process for a management consulting firm to conduct the audit. A final report on the findings of the performance audit shall be submitted to the Joint Commission on Transportation Accountability and the Governor no later than December 31, 2010. This bill is identical to SB 201 (Blevins).

*Patrons:* Oder, Cole, Marshall, D.W. and Villanueva

**HB 197 Secondary highway system; requirements for taking new streets into**

**system.** Provides that any street or segment of a street within a network addition that meets one or more of the public service requirements addressed in the regulations can be accepted into the secondary system, provided that the network addition satisfies all other requirements adopted pursuant to this section. In cases where a majority of the lots along the street or street segment remain undeveloped and construction traffic is expected to utilize that street or street segment after acceptance, the bonding requirement for such street or street segment may be required by VDOT to be extended for up to one year beyond that required in the secondary street acceptance requirements.

*Patron:* Ware, R.L.

**HB 209 Outdoor signs and advertising; penalties collected for violations of provisions.** Provides that all penalties and costs collected for violations of advertising provisions when the locality has entered into an agreement with the Commonwealth Transportation Commissioner shall be paid to the affected locality. Excludes signs and advertising erected only from Saturday through the following Monday from those agreements with the Commissioner.

*Patrons:* Bulova, Keam, Kory, Scott, J.M. and Watts; Senators: Barker, Petersen, Ticer and Whipple

**HB 214 HOV lanes; extends date for use by vehicle with clean special fuel license plates.** Extends until July 1, 2011, the sunset on use of HOV lanes by clean special fuel vehicles, regardless of the number of occupants. This bill incorporates HB 320 and HB 980.

*Patrons:* Greason, Plum, Hugo, Keam, LeMunyon, Morefield, Rust and Sickles

**HB 222 Secondary highway system; VDOT & DRPT to review new design standards components therefore.** Provides that for urban and urban development areas in jurisdictions using the urban county executive form of government (Fairfax County), the Virginia Department of Transportation shall work in conjunction with the jurisdiction and the Department of Rail and Public Transportation to review new design standards for state secondary highway system components that the jurisdiction proposes.

*Patrons:* Watts, Bulova, Herring, Keam, Kory, Plum, Scott, J.M., Sickles and Surovell; Senators: Barker, Howell, Petersen and Ticer

**HB 350/SB 35 Distribution of handbills, etc., and sale of merchandise or services on highways.** Makes the power to regulate and prohibit distribution of handbills, etc., and solicitation of contributions, and sale of merchandise on highways or public roadways and medians a statewide authority. The bill also adds the sale of services or attempted sale of services as a prohibited activity. This bill incorporates HB 534, HB 1139, and HB 1284.

*Patrons:* (HB350) Rust, James and Hugo; (SB35) Lucas

**HB 421 Transportation Board; may allocate funds in Mass Transit Fund designated for capital purposes.** Provides that, prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

*Patron:* Hope

**HB 631 Commonwealth Transportation Commissioner; advertising for bids.** Provides that the Commonwealth Transportation Commissioner may let projects costing below \$300,000 to contract. The bill further provides that the Commissioner may, at his discretion, build or maintain any of the roads by state or local employees as he may designate, in cases of emergency or on projects costing not more than \$600,000. This bill is identical to SB 254 (Miller, Y. B.).

*Patron:* Scott, E.T.

**HB 688/SB 25 Transportation district trains; unlawful to board or ride without a valid ticket.** Rewrites the code section that punishes unlawfully riding on a transportation district train. The bill punishes failure or refusal to pay the posted fare, or failure to properly validate a train ticket, as a \$100 civil penalty. The bill punishes use of a validated ticket outside of the zone of the ticketed ride as a \$100 civil penalty. The bill punishes use of a fraudulent or counterfeit ticket as a Class 2 misdemeanor. The bill limits the amount of recoverable costs to the same amount as the maximum fine.

*Patron:* (HB688) Miller, J.H.; (SB25) Puller and Marsden; Delegate: Torian

**HB 759/SB 696 HOV lanes; allows certain military personnel to use in Hampton Roads regardless of passengers.** Allows any active duty military member in uniform to use HOV lanes, regardless of the number of passengers, on Interstate Route 264 and Interstate Route 64 for the purposes of traveling to or from a military facility in the Hampton Roads Planning District. This bill incorporates HB 788.

*Patrons:* (HB759) Stolle, Iaquinto, Knight and Purkey; Senators: McWaters and Wagner; (SB696) McWaters, Blevins, Hurt, Newman, Norment, Quayle and Wagner

**HB 810 Vehicle lengths; increases triple saddle mount combination vehicles.** Increases the allowable length of triple saddle mount combination vehicles operated on National Highway System components to 97 feet.

*Patron:* Scott, E.T.

**HB 856 /SB 537 Speed limits; increases on highways where it is presently 65 mph to 70 mph.** Increases the general highway speed limit on highways where it is presently 65 mph to 70 mph. This bill incorporates HB 176.

*Patrons:* (HB 856) Carrico, Anderson, Athey, Bell, Richard P., Crockett-Stark, Lingamfelter, Merricks and Morrissey; (SB 537) Newman and Ruff

**HB 1241 Metropolitan planning organizations; membership.** Provides that any metropolitan planning organization may vote, with prior written authorization from the Governor, to have its membership expanded to include members of the House of Delegates, as selected by the Speaker of the House of Delegates, and members of the Senate, as selected by the Senate Committee on Rules.

*Patron:* Oder

**HB 1309 Public Procurement Act; procurement of certain professional services by Transportation Commissioner.** Increases from \$2 million to \$5 million the amount of all projects in one contract term for environmental location, design, and inspection work regarding highways and bridges awarded by the Commonwealth Transportation Commissioner. Such contract may be renewable for two additional one-year terms at the option of the Commissioner.

*Patron:* Scott, E.T.

**SB 28 Criminal background checks; fingerprinting of applicants and employees of public transit services.** Authorizes certain transportation district commissions and their contractors and public service corporations or contractors that provide public transit services to a locality to require fingerprint checks of certain applicants and employees so that an FBI criminal background check can be conducted.

*Patrons:* Puller; Delegate: Torian

**SB 404 Clean special fuel vehicles; removes requirement that Commissioner provide written regulations.** Removes requirement that the Commissioner provide written regulations before the Department of Motor Vehicles may issue government-use license plates for clean special fuel vehicles.

*Patron:* Petersen

**SB 405 Condemnations; highway construction.** Identifies VDOT as the party responsible for compiling interest accrued when the amount of an award in a highway construction-related condemnation proceeding is greater than that deposited with the court or through a certificate of deposit. This bill is the same as HB 516.

*Patron:* Petersen

**SB 552 HOV lanes; extends date for use by vehicle with clean special fuel license plates.** Extends the "sunset" on use of HOV lanes by clean special fuel vehicles, regardless of the number of their occupants, until July 1, 2011, but only if they are not traveling on I-66, I-95, or I-395.

*Patrons:* Barker and Colgan

*(Supersedes HB214 because this was signed by the Governor after signing HB214)*

**SB 553 Increase transit use strategies; Secretary of Transportation to report annually to General Assembly.** Requires the Secretary of Transportation to make an annual report to the General Assembly on actions taken to promote transit use, etc.

*Patrons:* Barker, Colgan and Puller

## **Transportation – Budget Amendments**

Transportation Budget Amendments Approved by the Conference Committee on HB 30

- Removes new \$30 million competitive transit grant program that would have taken an equal amount of funding from the transit capital program and reduced formula assistance.
- Contains budget language to match HB 421 (Hope) that will allow the Commonwealth Transportation Board to allocate up to 20% of transit capital funding to transit operating expenses, if funds available for operating expenses in the next fiscal year are projected to be less than the current fiscal year.
- Waives the requirement for a private match for Rail Enhancement funds for passenger rail service from Richmond to Norfolk and authorizes the use of Rail Enhancement funds to pay the operating costs for existing Washington to Lynchburg Amtrak service following the three year demonstration (rather than using transit funds).
- DRPT to work with the City of Roanoke and local transit providers to identify funding and positions for a pilot program providing commuter bus connector service between Roanoke and the Kemper Street Station in Lynchburg as part of the on-going passenger rail demonstration project
- Includes language directing the Secretary of Transportation to consider downsizing or eliminating the Virginia Transportation Research Council.
- Redirects the source of \$15 million in each year of the biennium for the local revenue sharing program from the HB 3202 Transportation Capital Project Revenue Bonds to the Commonwealth Transportation Fund.
- Directs the Secretaries of Transportation and Administration, along with impacted agency heads, to conduct an assessment of unused VDOT facilities to determine which could be sold or leased, also directs VDOT to proceed with the sale of the closed Culpeper Residency.
- Requires the Secretary of Transportation to review VDOT's vegetation management policies and identify cost savings associated with limiting mowing and vegetation removal to actively used pavements or shoulders consistent with traffic safety and convenience.
- Continues language ensuring that sound walls will be built in conjunction with the Dulles rail project along the Dulles Access/Toll Road Connector.
- Requires VDOT and the Department of Historic Resources to ensure that proposed road improvements along Georgetown Pike, including the intersection with Route 7 respect the historic nature of Georgetown Pike.

## **WATER RESOURCES & THE ENVIRONMENT**

**HB 82 Public sewer system; locality may adopt ordinance establishing standard for use & services; penalty.** Allows any locality under an order of the Virginia Department of Environmental Quality issued pursuant to the authority of subdivision (8a) of § 62.1-44.15 to adopt an ordinance establishing a uniform schedule of civil penalties for violations of ordinances governing the introduction of pollutants and wastes into the locality's public sewer system. Such civil penalties may not be more than \$100 for the initial summons and not more than \$150 for each additional summons.

*Patron:* Knight

**HB 441 Community and agricultural net metering; requires State Corporation Commission to establish program.** Requires the State Corporation Commission to establish a program of community net metering, which will allow a group of residential, small commercial, and other customers to establish an "eligible community customer" to act collectively to generate renewable energy for their own use. Members of an eligible community customer develop a net metered system that provides that excess generation by some members of the group will be used to offset consumption by other members within the group. The generating capacity of an eligible community customer's facility shall not exceed two megawatts at a single site but may exceed the amount of electricity provided by the incumbent electric utility over a net metering period at the site that hosts the generation facility. If electricity generated by the generation facility or facilities within the eligible community customer group in a year exceeds the net electricity consumption by members of the group, the utility shall reduce the eligible community customer's bill for the next monthly billing period by the amount of the excess. The measure also creates a category of eligible customer-generators for operators of agricultural net metering facilities that have a capacity not exceeding two megawatts. *(Continued to 2011 in Commerce and Labor)*

*Patrons:* Toscano and Landes

**HB 619 Erosion and sediment control; may assess civil penalty.** Removes the specific authority of a locality to impose a \$1,000 civil penalty on a person who engages in a land-disturbing activity without having an approved plan. Instead, any violation of any erosion and sediment control regulation or order of the Virginia Soil and Water Conservation Board, any provision of a local program, or

condition of a permit will be subject to a civil penalty of \$100 to \$1,000.

*Patron:* Orrock

**HB 667 Residential Property Disclosure Act; seller required to disclose presence of wastewater system.** Adds the following seller's representation to a prospective purchaser of residential property: the owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof and maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract.

*Patron:* May

**HB 1135 Pollutant Discharge Elimination System permit; certain conditions for owner of sewage facility.** Requires the owner or operator of a wastewater treatment facility with a discharge greater than 1,000 gallons per day up to 39,999 gallons per day that has not begun the discharge of pollutants prior to January 1, 2011, to demonstrate to the Department of Environmental Quality that he has acquired waste load allocations sufficient to offset his nitrogen and phosphorus discharges.

*Patron:* Morgan

**HB 1220/SB 395 Stormwater management regulations; changes effective date that establishes local program criteria.** Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay-wide Total Maximum Daily Load, but no later than December 1, 2011. The bill also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. This bill incorporates HB 1311 and HB 155.

*Patrons:* (HB1220) Hugo, Dance, Bulova, Gilbert, Scott, E.T. and Villanueva;  
(SB395) Wagner, Hanger, McDougle, Watkins and Whipple

**HB 1221 Water Facilities Revolving Fund; loans for stormwater runoff control best management practices.** Provides that loans may be made from the Virginia Water Facilities Revolving Fund, at the State Water Control Board's discretion, to a local government for construction of facilities or structures or implementation of best management practices that reduce or prevent pollution of state waters caused by stormwater runoff from impervious surfaces. However, under the bill wastewater treatment facilities will have the first priority in obtaining financing from the Fund.

*Patrons:* Bulova and Kory

**HB 1230 Underground Utility Damage Prevention Act; sewer laterals.** Establishes a set of requirements for the protection of sewer system laterals and private sewer laterals that are unique from the general requirements of the Underground Utility Damage Prevention Act. The measure also establishes procedures to address recurring noncompliance with the provisions of the Act by localities and other political subdivisions of the Commonwealth. The measure will become effective on January 1, 2011.

*Patrons:* Ware, R.L. and Purkey

**HB 1290 Nutrient trading; Eastern Shore facility to acquire credits in Potomac & Rappahannock tributaries.** Allows wastewater treatment facilities on the Eastern Shore to acquire nitrogen and phosphorus credits from facilities in the Potomac and Rappahannock tributaries. Currently a permitted facility can acquire point source nitrogen credits, among other restrictions, from one or more permitted facilities in the same tributary.

*Patrons:* Lewis; Senator: Northam

**SB 276 Dam safety.** Requires that the Virginia Soil and Water Conservation Board's Impounding Structure Regulations not require any dam in existence or under construction prior to July 1, 2010, that is classified as a high hazard, or is subsequently reclassified as a high hazard dam, to upgrade its spillway to pass a rainfall event that is greater than the maximum rainfall event recorded in Virginia. In addition, a dam would be in compliance with the spillway requirement of the regulations if the dam passes two-thirds of the maximum rainfall event and the dam's owner annually certifies that the dam meets certain specific conditions.

*Patrons:* Houck; Delegates: Cole and Scott, E.T.

**SB 345 Oyster restoration projects; authorizes Resources Authority to finance.**

Authorizes the Virginia Resources Authority to finance oyster restoration efforts undertaken by local governments.

*Patron:* Hanger

**SB 627 Nutrient reduction credits; nonpoint nutrient offsets to be credited against a nutrient allocation.** Clarifies who receives credit for the nutrient reductions associated with a stormwater nonpoint nutrient offset. Offsets are used to achieve compliance with construction site stormwater nutrient discharge requirements. The nonpoint nutrient offsets system works very similar to wetland banks. These offsets are only available when capturing all nutrients is too difficult on a development site. If the land disturbing activity using a nonpoint nutrient offset discharges to an MS4, the locality receives credit toward its nutrient allocation. If the discharge is not to a MS4 then the reductions are applied toward compliance with the nutrient allocation applicable to that area.

*Patrons:* Wagner, Martin and McDougle

**OTHER**

**HJ 130 Study; feasibility of developing a standard software package for local governments; report.** Requests the Secretary of Technology to study the feasibility of developing a standard software package for local governments. The Secretary of Technology shall also study the feasibility of identifying, developing, and customizing software applications that will improve the administration and operation of local programs and services, while providing cost savings.

*Patrons:* Poindexter and Nutter