

COUNTY OF ALBEMARLE



MEMORANDUM

TO: Albemarle County Board of Supervisors
Jeffrey B. Richardson, County Executive
Doug Walker, Deputy County Executive
Trevor Henry, Assistant County Executive

FROM: Greg Kamptner, County Attorney

DATE: April 9, 2019

RE: *Summary of the 2019 General Assembly Session*

The following is a summary of some key adopted bills pertaining to local governments that was considered by the General Assembly during its 2019 session. This summary focuses on those bills that may have the greatest interest to the Board of Supervisors and the County. A more complete summary of the bills affecting local governments will be available from the Virginia Association of Counties and the Virginia Municipal League.

1. Agriculture

- A. **HB 2637 Loans and grants for agricultural best management practices; riparian buffers.** Amends § 62.1-229.1 of the Code of Virginia, relating to loans and grants for agricultural best management practices; riparian buffers. Authorizes the State Water Control Board to issue loans and grants from the Virginia Water Facilities Revolving Fund for the construction, renovation, improvement, or equipping of facilities or structures to implement agricultural best management practices to prevent pollution of state waters. Current law authorizes the Board to only issue loans for the construction of the facilities. The bill includes among the types of facilities or structures for which a loan or grant may be issued riparian buffers planted in trees and maintained in accordance with the terms and conditions of the loan or grant. (*Patron: Webert*)

2. Animals

- A. **HB 1625 Animal care; adequate shelter, exposure to heat or cold.** Amends § 3.2-6500 of the Code of Virginia, relating to animal care; adequate shelter; adverse weather conditions. Provides that the definition of "adequate shelter" includes the provision of shelter that protects the animal from exposure to heat or cold. Current law requires the shelter to protect the animal from the adverse effects of heat or cold. (*Patrons: Orrock*)
- B. **HB 1874/SB 1604 Cruelty to animals; increases penalty.** Amends §§ 3.2-6569, 3.2-6570, and 18.2-403.2 of the Code of Virginia, relating to cruelty to animals; aggravated cruelty; penalty. Provides that any person who tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, or mutilates any dog or cat that is a companion animal whether belonging to him or another and as a direct result causes serious bodily injury to the dog or cat is guilty of a Class 6 felony. Current law requires that the animal die for the person to be guilty of the felony. (*Patrons: Ransone and DeSteph*)

- C. **HB 2745 Dangerous dog; deferral of proceedings, removal of finding.** Amends § 3.2-6540 of the Code of Virginia, relating to dangerous dogs. Authorizes a court to defer proceedings in the adjudication of an animal as a dangerous dog. The authority requires the court to place conditions upon the owner of the animal, the violation of which shall authorize the court to proceed as it otherwise would have. Provides that upon the fulfillment of the conditions, the court shall dismiss the proceedings against the animal and the owner. (*Patron: Hope*)
- D. **SB 1025 Companion animals; adequate shelter and space.** Amends § 3.2-6500 of the Code of Virginia, relating to companion animals; adequate shelter and space. Provides that outdoor tethering of a companion animal does not meet the requirement that an animal be given adequate shelter, unless the animal is actively engaged in an agricultural or hunting activity, when tethering is conducted during a heat advisory or a severe weather warning. The bill provides that in order to meet the requirement that an animal be given adequate space a tether must be at least four times the length of the animal or 15 feet in length, whichever is greater, and not cause injury or pain, weigh more than one-tenth of the animal's body weight, or have weights or heavy objects attached to it. Current law requires that the tether be at least three times the length of the animal. The bill exempts agricultural animals from existing provisions and these added provisions related to tethering. The bill also authorizes any locality to adopt ordinances that are parallel to or more stringent than the state law regarding the care of companion animals. (*Patron: Spruill*)
- E. **SB 1367 Dogs running at large in packs; local ordinance, civil penalty.** Amends § 3.2-6538 of the Code of Virginia, relating to dogs running at large in packs; local ordinance; civil penalty. Requires a locality that adopts an ordinance to prohibit the running at large of all or any category of dogs to exempt dogs used for hunting and requires the locality to include in its ordinance a civil penalty in an amount established by the locality not to exceed \$100 per dog for the owner or custodian of any dog found running at large in a pack. The bill requires that the civil penalties be deposited by the local treasurer in the dog and cat license fund, which is used to support animal control. (*Patron: Norment*)

3. **Conflicts and Ethics**

- A. **SB 1430 Virginia Conflict of Interest and Ethics Advisory Council; duties.** Amends § 30-356 of the Code of Virginia and adds § 2.2-3132 to require all local elected officials to take training on the provisions of the State and Local Government Conflict of Interests Act at least once every two years. The bill requires the officials in office on July 1, 2019, to complete training no later than December 31, 2019. The Council may provide the training by online means. (*Patron: Obenshain*)

4. **Courts**

- A. **HB 2239 Court buildings; ownership, location and jurisdiction.** Amends §§ 15.2-1638, 16.1-69.35, 16.1-77, and 16.1-123.1 of the Code of Virginia and adds § 16.1-69.35:01 to allow courthouses to be located on property owned jointly by a county and city. Other changes allow Albemarle County to locate its general district courts immediately across the street from the county courthouse and clarifies certain jurisdictional issues in cases where a county general district court is established in a city. (*Patron: Bell, Robert B.*)

5. **Elections**

- A. **HB 2790/SB 1026 Absentee voting; no-excuse in-person.** Amends several sections of Title 24.2 of the Code of Virginia to allow for any registered voter to vote by absentee ballot in person beginning on the second Saturday immediately preceding any election without providing a reason or making prior application for an absentee ballot. Makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00 p.m. on the Saturday immediately preceding the election. Retains the current provisions for voting an absentee ballot by mail or in person prior to the second Saturday immediately preceding the election, including the application requirement and the list of statutory reasons for absentee voting. The provisions of the bill do not become effective until the November 3, 2020, general election. State Board of Elections is required to submit a report on the procedures and instructions it promulgates for conducting absentee voting pursuant to the provisions of the bill. (*Patrons: Rush and Spruill*)

6. Environment

A. **HB 2269 Regional transportation sector emissions programs; participation by Commonwealth.**

Prohibits the Governor or any state agency from adopting any regulation establishing or bringing about the participation by the Commonwealth in the Transportation and Climate Initiative or any other regional transportation sector emissions program. The bill provides that the Commonwealth shall be allowed to participate in such a regional transportation sector emission program if the House of Delegates and the Senate of Virginia each adopt a resolution by two-thirds vote that specifically references and approves the regulatory text proposed for adoption by a state agency. (*Patron: Poindexter*)

B. **HB 2611 Regional Greenhouse Gas Initiative; prohibition on participation by Commonwealth.**

Prohibits the Governor or any state agency from adopting any regulation establishing a carbon dioxide cap-and-trade program or bringing about the participation by the Commonwealth in a regional market for the trading of carbon dioxide allowances. The bill provides that the Commonwealth shall be allowed to participate in such a cap-and-trade program if the House of Delegates and the Senate of Virginia each adopt a resolution by a two-thirds vote that specifically references and approves the regulatory text proposed for adoption by a state agency. (*Patron: Poindexter*)

C. **SB 1400 C-PACE loans; stormwater management, residential dwellings and condominiums.** Amends § 15.2-958.3 of the Code of Virginia, relating to Commercial Property Assessed Clean Energy (C-PACE) loans; stormwater management; residential dwellings and condominiums. Authorizes any locality, by ordinance, to authorize contracts to provide loans for the initial acquisition and installation of stormwater management improvements with free and willing property owners of both existing properties and new construction. Current law authorizes the contracts only for clean energy improvements. (*Patron: Petersen*)

7. Freedom of Information Act

A. **SB 1431 Virginia Freedom of Information Act; training requirements for local elected officials.** Amends § 2.2-3713 of the Code of Virginia and adds § 2.2-3704.3 to require the Virginia Freedom of Information Advisory Council or the local government attorney to provide, and local elected officials to complete, a training session on the provisions of the Virginia Freedom of Information Act. The bill requires local elected officials to complete the training at least once every two years while they are in office. The bill eliminates the three-day notice requirement for an expedited hearing on a petition for mandamus or injunction where violations relating to the open meeting requirements of the Act are alleged. The requirement of the bill for training has a delayed effective date of July 1, 2020. (*Patron: Obenshain*)

B. **SB 1554 Virginia Freedom of Information Act (FOIA); violations and civil penalties.** Amends § 2.2-3714 of the Code of Virginia to provide that in addition to any penalties imposed under FOIA, (i) if a court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of FOIA because the officer, employee, or member of a public body altered or destroyed the requested public records with the intention of avoiding the provisions of FOIA prior to the expiration of the applicable record retention period set pursuant to the Virginia Public Records Act, the court may impose upon the officer, employee, or member in his individual capacity a civil penalty of up to \$100 per record altered or destroyed and (ii) if a court finds that a member of a public body voted to certify a closed meeting and at the time of the certification an attorney representing the body was present and the certification was not in accordance with the requirements of FOIA, the court may impose on the public body a civil penalty of up to \$1,000. (*Patron: Surovell*)

8. Land Use and Development

A. **HB 1698 Zoning Appeals, Board of; written order, certified mail.** Amends § 15.2-2311 of the Code of Virginia to authorize a locality to send a zoning administrator's written order using certified mail. Current law allows an order to be sent only by registered mail. (*Patron: Fariss*)

- B. HB 1913/SB 1663 Subdivision ordinance; sidewalks.** Amends § 15.2-2242 of the Code of Virginia, relating to subdivision ordinance; sidewalks. Provides an additional tool to localities to facilitate the construction of sidewalks to connect pedestrian networks. The legislation authorizes localities to adopt a provision to require a sidewalk on lots being developed or subdivided if "...the provision of a sidewalk [the need for which is substantially generated and reasonably required by the proposed development and] is in accordance with the locality's adopted comprehensive plan". Currently a locality may only require a sidewalk if a "... lot being subdivided or developed fronts on an existing street, and adjacent property on either side has an existing sidewalk". (*Patrons: Bulova and Barker*)
- C. HB 1966 Uniform Statewide Building Code; issuance of building permits.** Amends § 36-105 of the Code of Virginia, relating to the Uniform Statewide Building Code; issuance of building permits. Requires any fees that are levied by a local governing body in order to defray the cost of Building Code enforcement and appeals, with the exception of the levy imposed for the support of training programs of the Building Code Academy, be used only to support the functions of the local building department. The bill also requires local building departments, when denying an application for the issuance of a building permit, to provide to the applicant a written explanation detailing the reasons for which the application was denied. The bill provides that the applicant may submit a revised application addressing the reasons for which the application was previously denied and that, if the applicant does so, the local building department shall be encouraged, but not required, to limit its review of the revised application to only those portions of the application that were previously deemed inadequate and that the applicant has revised. (*Patron: Yancey*)
- D. HB 2229 Affordable housing; waiver of fees.** Amends § 15.2-958.4 of the Code of Virginia, relating to affordable housing; waiver of certain fees. Provides that a locality may by ordinance provide for the waiver of building permit fees and other local fees associated with the construction, renovation, or rehabilitation of housing by a private-sector entity that is pursuing an affordable housing development. The bill provides that a locality may determine in its ordinance what constitutes affordable housing and may set other conditions on the waiver of fees as it determines appropriate. (*Patron: Bagby*)
- E. HB 2342/SB 1373 Conditional rezoning proffers; extensive changes to conditional zoning provisions.** Amends § 15.2-2303.4 of the Code of Virginia and repeals the third enactment of Chapter 322 of the Acts of Assembly of 2016, relating to conditional rezoning proffers. Makes changes to conditional zoning provisions enacted in 2016. Specific amendments include the addition of provisions stating that no local governing body shall require any unreasonable proffer, as described in current law. Under current law, no locality may request or accept any unreasonable proffer. Other changes (i) allow an applicant to submit any onsite or offsite proffer that the applicant deems reasonable and appropriate, as conclusively evidenced by the signed proffers, and (ii) state that nothing in the bill shall be deemed or interpreted to prohibit communications between an applicant or owner and the locality or to prohibit presentation, analysis, or discussion of the potential impacts of new residential development or other new residential use on the locality's public facilities. The provisions of the bill are effective as to any application for a rezoning filed on or after July 1, 2019, or for a proffer condition amendment amending a rezoning that was filed on or after July 1, 2019, or to certain other pending applications. The bill also provides that an applicant with a pending rezoning application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning application filed on or after July 1, 2016, but before July 1, 2019, or proffer condition amendment application amending a rezoning for which the application was filed on or after July 1, 2016, but before July 1, 2019, may continue to proceed under the law as it existed then. (*Patrons: Thomas and Favola*)
- F. HB 2569/SB 1094 Family day homes; zoning permits.** Amends § 15.2-2292 of the Code of Virginia, relating to family day homes; zoning permits. Under current law a locality may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a "family day home" accommodating 5 to 12 children under the age of 13. This bill modifies this provision in two ways. First, it changes "may" to "shall" so that if no written objections to a proposed daycare for 5-12 children are received, then the zoning administrator must issue the permit. Second, new language lays out a process whereby the zoning administrator may issue or deny the permit if objections are received, or (if required by ordinance) kick the decision up to the local governing body for consideration. Counties that utilize this optional provision to issue zoning permits

should review these changes and consider how to proceed in updating their approval process. (*Patrons: LaRock and Favola*)

G. HB 2621/SB 1091 Rezoning and site plan approval; decommissioning solar energy equipment, etc.

Amends the Code of Virginia by adding a section numbered 15.2-2241.2, relating to rezoning and site plan approval; decommissioning solar energy equipment, facilities, or devices. Requires a locality, as part of the local legislative approval process or as a condition of approval of a site plan, to require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon certain terms and conditions, including right of entry by the locality and financial assurance. (*Patrons: Ingram and Reeves*)

H. Pending: HB 2686 Zoning Appeals, Board of; changes vote requirement. This bill would amend §§ 15.2-2308 and 15.2-2312 of the Code of Virginia, relating to board of zoning appeals; vote requirement. Changes the vote requirement for certain board of zoning appeals decisions from a majority of the membership to a majority of the membership present and voting. The General Assembly rejected the Governor's proposed amendments which would allow localities the local option to preserve the current voting requirements by ordinance. The General Assembly's action has been communicated to the Governor. (*Patron: Knight*)

9. Law Enforcement

A. SB 1507 Use of unmanned aircraft systems by law-enforcement officers; persons sought for arrest.

Amends § 19.2-60.1 of the Code of Virginia to provide that a law-enforcement officer may deploy an unmanned aircraft system (i) to aerially survey a primary residence of the subject of the arrest warrant to formulate a plan to execute an existing arrest warrant or capias for a felony offense or (ii) to locate a person sought for arrest when the person has fled from a law-enforcement officer and a law-enforcement officer remains in hot pursuit of the person. (*Patron: Carrico*)

10. Schools

A. HB 1738 School buildings; plans to be reviewed by a professional trained & experienced in crime prevention. Amends § 22.1-140 of the Code of Virginia, relating to school buildings; plans to be reviewed by a professional trained and experienced in crime prevention through building design. This bill requires the plans and specifications for new or remodeled public school building construction to be reviewed by an individual or entity with professional expertise in crime prevention through environmental design. Comments by the reviewer shall be submitted to the Superintendent of Public Instruction along with the final plans. (*Patron: Rush*)

B. HB 2192/SB 1331 Public school buildings and facilities; modernization. Amends §§ 2.2-2279 and 15.2-4901 of the Code of Virginia and 22.1-141.1 and 22.1-141.2, and 56-589.1, relating to the modernization of public school buildings and facilities. Provides that it is the legislative intent that public school buildings and facilities be designed, constructed, maintained, and operated to generate more electricity than consumed, and allows local school boards to enter into leases with private developers to achieve that goal. The bill also provides that private developers that contract with local school boards to modernize public school buildings and facilities may receive financing from the Virginia Small Business Financing Authority. (*Patrons: Rush and Stanley*)

C. HB 2344/SB 1520 School bus video monitoring; Department of Motor Vehicles records; certain private vendors; penalty. Requires the Department of Motor Vehicles to release certain vehicle owner data, upon request, to a private vendor operating a video-monitoring system on or in a school bus. The bill limits how the data can be used and stored and provides that any person who unlawfully discloses the data is subject to a civil penalty of \$1,000 for each disclosure. The bill provides that drivers required to stop for a stopped school bus shall remain stopped until the school bus is put in motion. (*Patrons: Bell and Carrico*)

11. Taxation

- A. **HB 1655/SB 1270 Real property tax; exemption for disabled veterans, surviving spouse's ability to move.** Amends §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia to enact as statutory law an amendment to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia that was adopted by the voters on November 6, 2018, which applies the real property tax exemption for the surviving spouse of a disabled veteran to the spouse's principal place of residence regardless of whether the spouse moves to a different residence. The provisions of the bill would apply to taxable years beginning on and after January 1, 2019. The bill makes technical corrections related to the real property tax exemptions for surviving spouses of members of the armed forces killed in action and surviving spouses of certain persons killed in the line of duty. *(Patrons: Miyares and Stuart)*
- B. **HB 1937 Real property tax; exemptions for elderly and handicapped, computation of income limitation.** Amends § 58.1-3212 of the Code of Virginia to provide that, if a locality has established a real estate tax exemption for the elderly and handicapped and enacted an income limitation related to the exemption, the locality may exclude, for purposes of the limitation, any disability income received by a family member or nonrelative who lives in the dwelling and who is permanently and totally disabled. *(Patron: Krizek)*
- C. **HB 2150/SB 1196 Real property tax; exemption for the elderly and disabled, improvements to a dwelling.** Amends § 58.1-3210 of the Code of Virginia to provide that, for purposes of the real property tax exemption for the elderly and disabled, certain improvements to exempt land and the land the improvements are situated on shall be included as part of the dwelling and exempt from tax. *(Patrons: Ingram and Dance)*
- D. **HB 2365 Land preservation; special assessment, optional limit on annual increase in assessed value.** Amends § 58.1-3231 of the Code of Virginia to authorize localities that require use value assessment and taxation to provide by ordinance that the annual increase in the assessed value of eligible property shall not exceed a specified dollar amount per acre. *(Patron: Knight)*

12. Telecommunications and Utilities

- A. **HB 2141 Local services districts; broadband and telecommunications services.** Amends § 15.2-2403 of the Code of Virginia, relating to local services districts; broadband and telecommunications services. Authorizes a local governing body, to contract with a broadband service provider who will construct, maintain, and own communications facilities and equipment required to facilitate delivery of last-mile broadband services to unserved areas of the service district, provided that the locality documents that less than 10 percent of residential and commercial units within the project area are capable of receiving broadband service at the time the construction project is approved by the locality. *(Patron: Thomas)*
- B. **HB 2691 Electric utilities; provision of broadband services to unserved areas.** Amends the Code of Virginia by adding a section numbered 56-585.1:8, relating to a pilot program for the provision of broadband capacity to unserved areas of the Commonwealth by certain electric utilities. Requires the State Corporation Commission to establish pilot programs under which Dominion Energy and Appalachian Power may submit a proposal to provide or make available broadband capacity to non-governmental internet service providers in areas of the Commonwealth that are unserved by broadband. The costs of Dominion Power's proposal are capped at \$60 million annually. The provision of the broadband capacity is declared to be in the public interest. Authorizes the utilities to recover the net costs of the pilot program from customers through a rate adjustment clause. The measure authorizes the utility to become licensed to own or lease broadband capacity equipment. The measure requires the Commission to conduct proceedings to determine whether an area is unserved by broadband. *(Patron: O'Quinn)*
- C. **HB 2547/SB 1769 Electric utilities; net energy metering.** Amends §§ 56-585.1:3, 56-585.3, and 56-594 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 56-585.4 and 56-594.01, relating to electric utilities; net energy metering by electric cooperatives; community solar development. Establishes requirements for net energy metering by electric cooperatives effective upon the earlier of July 1, 2019, or the effective date of implementing regulations by the State Corporation Commission. Instances where

the new net energy metering program's requirements differ from those of the existing program include (i) the cap on the capacity of generating facilities, which will initially be two percent of system peak for residential customers, two percent of system peak for not-for-profit and non-jurisdictional customers, and one percent of system peak for other nonresidential customers; (ii) authorizing an electric cooperative to raise these caps up to a cumulative total of seven percent of its system peak; (iii) legalizing third-party partial requirements power purchase agreements for those retail customers and non-jurisdictional customers of an electric cooperative that are exempt from federal income taxation; and (iv) establishing registration requirements for third-party partial requirements power purchase agreements, including a self-certification system under which a provider is required to affirm certain information to (*Patrons: Hugo and Sturtevant*)

13. Transportation

- A. **HB 1818/SB 1044 Parking ordinances; enforcement by counties or towns with a population of at least 40,000.** Amends § 46.2-1220 of the Code of Virginia, relating to parking ordinances; enforcement. Authorizes any county or town with a population of at least 40,000 to provide by ordinance that law-enforcement officers, other uniformed employees of the locality, and uniformed personnel under contract with the locality may issue a summons or parking ticket for a violation of the locality's ordinances or regulations regarding the parking, stopping, or standing of vehicles. Current law creates the authority for any city with a population of at least 40,000. (*Patrons: Black and Delaney*)
- B. **HB 2752 Motorized skateboards or scooters; clarifies definition, local authority.** Amends several sections of Title 46.2, relating to motorized skateboards or scooters; operation; local authority. Authorizes localities to regulate the operation of companies providing motorized skateboards or scooters for hire. The bill changes the definition of motorized skateboard or scooter by (i) removing the requirement that the device have no seat and requiring that the device be designed to allow a person to stand or sit, (ii) removing the maximum power limits for the device and providing that the device may be powered in whole or in part by an electric motor, (iii) providing that the device has a speed of no more than 20 miles per hour, and (iv) providing that the device weighs less than 100 pounds. The bill prohibits operating a motorized skateboard or scooter at a speed faster than 20 miles per hour. Certain provisions of this bill have a delayed effective date of January 1, 2020. (*Patron: Pillion*)