

# COUNTY OF ALBEMARLE



## MEMORANDUM

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**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:** July 7, 2020

**RE:** *2020 General Assembly: Legislative Update*

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The General Assembly's 2020 session resulted in the adoption of many bills with the potential to affect Virginia localities. This memorandum focuses on a select few that may be of the greatest interest to the Board of Supervisors and the County. A summary of additional bills affecting local governments is available from the Virginia Association of Counties [here](#).

This memorandum is divided into three parts. The first part briefly summarizes the Board's 2020 legislative priorities and how those priorities fared in the General Assembly. The second part identifies the new key bills that require an ordinance in order to be implemented. Our office did not identify any bills requiring amendments to the County Code by July 1 and, because of the COVID-19 pandemic, a number of the bills in this memorandum have delayed effective dates of January 1, 2021 or later. The third part is a summary of the key bills adopted (and one that failed) during the General Assembly's 2020 session pertaining to local government. As is our practice, we rely heavily on the bill summaries in the Virginia Legislative Information System, making revisions as necessary.

### **The Board's 2020 Legislative Priorities**

The following is a brief summary of the Board's 2020 legislative priorities and how they fared. These laws are described in the Summaries of New Key Laws (Summaries) section beginning on page 3 of this memorandum.

- Allowing In-kind resources for volunteer firefighting and emergency service providers: HB 343/SB 465 were adopted. See Section 8(B) of the Summaries.
- Regulating carrying specified loaded weapons in public areas: Failed; alternative legislation in SB 35/HB 421 were adopted. See Section 4(A) of the Summaries.
- Local control of war monuments and memorials: SB 183/HB 1537 were adopted. See Section 4(B) of the Summaries.
- Equal taxing authority for counties: HB 785/SB 588 were adopted to put counties closer on par with cities' taxing authority. See Section 10(A) of the Summaries.

- Increasing the minimum tree canopy to be preserved during development: HB 1624 would have expanded current enabling authority and it was continued to 2021; another bill regarding preserving trees in Chesapeake Bay Preservation Areas was adopted. See Section 3(B) of the Summaries.
- Biscuit Run funding: A budget amendment would have provided \$5,000,000 the first year and \$5,000,000 the second year from the State to the County to develop Biscuit Run Park; this amendment was not included in the adopted biennial State budget.

### **New Laws for Which an Ordinance is Required to Implement**

The following is a list of new laws for which an ordinance is required to implement. These laws are described in the Summaries.

- **SB 11/HB 534 Local disposable plastic bag tax.** This bill adds Virginia Code § 58.1-1745 *et seq.* to authorize any county or city to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers. The tax must have a delayed effective date of January 1, 2021. See Section 3(A) of the Summaries.
- **SB 35/HB 421 Control of firearms by localities; permitted events.** This bill amends Virginia Code §§ 15.2-915 and 15.2-915.5 to authorize localities to prohibit the possession or carrying of firearms, ammunition, or components, or any combination thereof, at certain public facilities. See Section 4(A) of the Summaries.
- **HB 284/SB 225 Removal of dangerous roadside conditions; local option.** This bill adds Virginia Code § 15.2-2009.1 and amends Virginia Code § 15.2-2011 to authorize localities to require the owner of any property located adjacent to a right-of-way maintained by the Virginia Department of Transportation to remove any and all trees, tree limbs, shrubs, high grass, or other substances in certain circumstances. See Section 4(D) of the Summaries.
- **HB 742 Local regulation of unmanned aircraft.** This bill amends Virginia Code § 15.2-926.3 to authorize a political subdivision to regulate the take-off or landing of certain unmanned aircraft (drones) on property owned by the political subdivision in accordance with the rules and regulations adopted by the Department of Aviation. The bill has a delayed effective date of January 1, 2021 and may also be implemented by resolution. See Section 4(D) of the Summaries.
- **HB 696 Local human rights ordinances; sexual orientation and gender identity.** This bill amends Virginia Code § 15.2-965 to enable localities to prohibit discrimination in housing, employment, public accommodations, credit, and education on the basis of sexual orientation and gender identity. See Section 5(A) of the Summaries.
- **HB 582/SB 939 Labor and employment; collective bargaining; employees of counties, cities, and towns.** This bill amends Virginia Code §§ 40.1-55, 40.1-57.2, and 40.1-57.3 to authorize localities to collectively bargain, among other things, with their employees. The bill has a delayed effective date of May 1, 2021. See Section 6(A) of the Summaries.
- **HB 655/SB 870 Special use permit for solar photovoltaic projects.** This bill adds Virginia Code § 15.2-2288.8 to authorize a locality to include in its zoning ordinance provisions for a special use permit for any solar photovoltaic (electric energy) project and, more specifically, impose conditions on these projects not normally imposed on special uses. See Section 7(C) of the Summaries.
- **SB 149 Courthouse and courtroom security; assessment.** This bill amends Virginia Code § 53.1-120 to increase from \$10 to \$20 the maximum amount a local governing body may assess against a convicted defendant as part of the costs in a criminal or traffic case in district or circuit court to fund courthouse and courtroom security. See Section 8(A) of the Summaries.

- **HB 785/SB 588 Local tax authority.** This bill amends numerous sections of Title 58.1 of the Virginia Code relating to local taxing authority, authorizing counties to impose admissions and cigarette taxes and increase the tax rates for the food and beverage and transient occupancy taxes. The bill establishes different effective dates for the various taxes. See Section 10(A) of the Summaries.
- **HB 1021 Personal property tax; forest harvesting machinery and equipment.** This bill amends Virginia Code §§ 58.1-3505 and 58.1-3506 to enable a locality to exempt from tangible personal property taxes certain farm machinery and farm implements such as that used for forest harvesting and silvicultural activities.
- **HB 466 Business license waivers.** This bill amends Virginia Code § 58.1-3703.1 to enable localities with a population greater than 50,000 to waive license requirements for businesses with gross receipts of \$200,000 or less. Current law limits the waiver to businesses with gross receipts of less than \$100,000.

### Summaries of New Key Laws

#### 1. Agriculture

- A. **SB 24 Agritourism activities; horseback riding.** This bill amends Virginia Code § 3.2-6400 to add horseback riding to the definition of “agritourism activity.” Agritourism activities have limited liability for the inherent risks of the activity under certain conditions.

**Comment:** The expansion of the definition also expands the meaning of “agritourism activity” as it is regulated under the County’s Zoning Ordinance pursuant to Virginia Code § 15.2-2288.6.

#### 2. Elections

- A. **HB 1103 Ranked choice voting; elections for local governing bodies; local option pilot program.** This bill adds Virginia Code § 24.2-673.1 to enable local governing bodies to decide to conduct their elections by ranked choice voting. The bill defines “ranked choice voting” to mean the method of casting and tabulating votes in which: (1) voters rank candidates in order of preference; (2) tabulation proceeds in rounds such that in each round either a candidate or candidates are elected or the last-place candidate is defeated; (3) votes for voters’ next-ranked candidates are transferred from elected or defeated candidates; and (4) tabulation ends when the number of candidates elected equals the number of offices to be filled. The decision to conduct elections by ranked choice voting must be made in consultation with the local electoral board and general registrar and by a majority vote of the governing body. The bill authorizes the State Board of Elections to promulgate regulations for the proper and efficient administration of elections determined by ranked choice voting. The bill also provides that any costs incurred by the Department of Elections related to technological changes necessary for the implementation of ranked choice voting pursuant to the bill must be charged to the localities exercising the option to proceed with ranked choice voting. The bill has a delayed effective date of July 1, 2021, and sunsets on July 1, 2031.

**Comment:** This bill was introduced by Delegate Hudson, who is quoted in a Senate committee hearing in the Virginia Mercury (February 18, 2020): “It’s a benefit to communities like mine in Charlottesville that tend to have very low-turnout primaries in the summer and then local elections in the fall that often have multiple candidates running for a handful of open seats . . . You end up with really split elections and less certainty about which candidate has majority support from the community.”

- B. **HB 784/SB 236 Constitutional amendment (voter referendum); apportionment; Virginia Redistricting Commission.** This bill provides for a referendum at the November 3, 2020, general election to approve or reject amendments to the Constitution of Virginia establishing the Virginia Redistricting Commission and providing for the reapportionment of the Commonwealth to be done by the Commission. If approved by the voters, the amendments would become effective on November 15, 2020.
- C. **FAILED HB 761 Elections; preclearance of certain covered practices required.** This bill would have added Virginia Code § 24.2-304.1:1 to require the governing body of a covered jurisdiction, prior to

enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, to either: (1) institute an action in circuit court for a declaratory judgment that the covered practice neither has the purpose or effect of denying or abridging the right to vote on account of race or color or membership in a language minority group nor will it result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise; or (2) submit the covered practice to the Office of the Attorney General for issuance of a certification that no objection exists to the enactment or administration by the covered jurisdiction of the covered practice. A “covered jurisdiction” is defined to mean any county, city, or town that is determined by the Attorney General to have a voting age population that contains two or more racial or ethnic groups, each constituting at least 20 percent of its voting age population.

**Comment:** The bill passed both the House and the Senate in an amended form, but then stalled when the Senate insisted on further amendments, the House acceded to the request, a Senate committee was appointed, and then no further action was taken by the House. Those amendments would have, among other things, delayed the effective date of the bill to January 1, 2022. The bill would have created a State version of the former preclearance procedure required by Section 5 of the Voting Rights Act of 1965, struck down by the United States Supreme Court in *Shelby County v. Holder*, 570 U.S. 529 (2013).

### 3. **Environmental**

A. **SB 11/HB 534 Local disposable plastic bag tax.** This bill adds Virginia Code § 58.1-1745 *et seq.* to authorize any county or city, beginning no earlier than January 1, 2021, to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers, with certain bags being exempt from the tax. The exempt bags include durable plastic bags made for multiple reuse, plastic bags used to wrap bulk and perishable food items, drying cleaning and prescription drug bags, and plastic bags sold in packages for garbage, pet waste, or leaf removal. The bill allows every retailer that collects the tax to retain two cents of the five-cent tax until January 1, 2023, and one cent of the five-cent tax thereafter. The revenue accruing to the county or city must be used for certain purposes including environmental cleanup and the provision of reusable bags. The measure authorizes the Tax Commissioner to administer the tax.

**Comment:** Any ordinance adopted to impose this tax must be submitted to the Tax Commissioner three months before its effective date, and the effective date must be on the first day of any calendar quarter.

B. **HB 504 Chesapeake Bay Preservation Areas; mature trees.** This bill amends Virginia Code § 62.1-44.15:72 to add: (1) the preservation of mature trees or planting of trees, both as a water quality protection tool and as a means of providing other natural resource benefits; and (2) coastal resilience and adaptation to sea-level rise and climate change to the list of activities that the State Water Control Board is directed to encourage and promote as it adopts criteria for local governments to use as they consider development in Chesapeake Bay Preservation Areas. The bill directs the State Water Control Board to adopt regulations to implement the provisions of the bill.

**Comment:** This bill further strengthens the enabling authority for the County’s stream buffer regulations. The State Department of Forestry is also doing work related to tree preservation for more possible legislation next year.

C. **HB 1422/SB 704 Chesapeake Bay Watershed Implementation Plan initiatives; nutrient management plans; stream exclusion.** This bill adds Virginia Code § 62.1-44.119 *et seq.* to set December 31, 2025, as the target date to achieve the water quality goals contained in Virginia’s final Chesapeake Bay Total Maximum Daily Load Phase III Watershed Implementation Plan (WIP). The bill provides that if the Secretary of Agriculture and Forestry and the Secretary of Natural Resources (the Secretaries) jointly determine on or after July 1, 2026, that the goals have not been met by a combination of agricultural best management conservation practices, including the coverage of a sufficient portion of Chesapeake Bay cropland by nutrient management plans or the installation of a sufficient number of livestock stream exclusion practices, then certain provisions requiring the use of nutrient management plans and livestock stream exclusions will become effective. The bill directs the Secretaries to convene a stakeholder advisory group to review annual progress toward the implementation of agricultural commitments in the WIP, develop a process to assist in creating nutrient management plans, and develop a plan for the stream exclusion program. The bill also directs the Virginia Soil and Water Conservation Board to establish by

December 31, 2020, the official method for identifying perennial streams and directs the Department of Conservation and Recreation to establish by July 1, 2021, a portable stream fencing practice for inclusion in the Virginia Agricultural Best Management Practice Cost-Share Program.

- D. **HB 1639 Department of Environmental Quality; work group to research rural fill disposal.** This is an uncodified bill that directs the Department of Environmental Quality (DEQ) to convene a work group to research the practice of rural landowners allowing, or allowing for compensation, the use of their lands as disposal sites for construction fill and debris from road construction and development projects. The work group is required to consider recommending regulations for possible adoption by DEQ, including a regulation containing a model ordinance relating to the practice for adoption by localities, and statutory changes, including changes to the practice related to agricultural engineering operations and construction of terraces.

**Comment:** Community Development staff is currently working on proposed revisions to the County's fill and waste regulations.

#### 4. **General**

- A. **SB 35/HB 421 Control of firearms by localities; permitted events.** This bill amends Virginia Code §§ 15.2-915 and 15.2-915.5 to authorize localities to adopt ordinances to prohibit the possession or carrying of firearms, ammunition, or components, or any combination thereof, in: (1) any building, or part thereof, owned or used by the locality for governmental purposes; (2) any public park owned or operated by the locality; (3) any recreation or community center facility; or (4) any public street, road, alley, sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. The bill also repeals provisions limiting the authority of localities and State governmental entities to bring lawsuits against certain firearms manufacturers and others. The bill also provides that any firearm received by the locality pursuant to a gun buy-back program must be destroyed by the locality unless the person surrendering the firearm requests in writing that it be sold.

- B. **SB 183/HB 1537 Memorials for war veterans.** This bill amends Virginia Code §§ 15.2-1812, 15.2-1812.1, and 18.2-137 to authorize localities to remove, relocate, contextualize, or cover any monument or memorial for war veterans on the locality's public property, not including a monument or memorial located in a publicly owned cemetery, regardless of when the monument or memorial was erected, and removes certain criminal and civil penalties. Before a monument or memorial may be removed, relocated, contextualized, or covered, the local governing body must hold a properly advertised public hearing and, if it decides to remove, relocate, contextualize, or cover the monument or memorial, it must first, for a period of 30 days, offer the monument or memorial for relocation and placement to any museum, historical society, government, or military battlefield. The local governing body has sole authority to determine the final disposition of the monument or memorial. The bill also authorizes the local governing body to call for an advisory referendum prior to voting on the motion. Lastly, the bill requires the Board of Historic Resources to promulgate regulations governing the manner in which any monument or memorial may be contextualized.

**Comment:** This bill was one of the Board's legislative priorities for 2020 and was discussed by the Board at its July 1 meeting.

- C. **HB 150 Derelict residential buildings; civil penalty.** This bill amends Virginia Code § 15.2-907.1 to authorize localities having a real estate tax abatement program established under that section to impose a civil penalty not exceeding \$500 per month on owners of derelict residential property that have not submitted a required plan to renovate or demolish the derelict structure. The bill prohibits the total of the penalty from exceeding the cost to demolish the building.

**Comment:** The real estate tax abatement program allows an owner to abate the costs of demolition or to abate the increase in the fair market value of the renovations of a derelict residential building over a period of at least 15 years. The demolition of historic structures is not eligible for abatement. The County does not currently have such a program.

- D. **HB 284/SB 225 Removal of dangerous roadside conditions; local option.** This bill adds Virginia Code § 15.2-2009.1 and amends Virginia Code § 15.2-2011 to authorize localities to adopt ordinances requiring the owner of any property located adjacent to a right-of-way maintained by the Virginia Department of Transportation to remove any and all trees, tree limbs, shrubs, high grass, or other substances that might dangerously obstruct the line of sight of a driver, be involved in a collision with a vehicle, or interfere with the safe operation of a vehicle when the locality requires removal. The bill also enables localities to remove the trees, shrubs, high grass and other substances after providing notice required by law.
- E. **HB 742 Local regulation of unmanned aircraft.** This bill amends Virginia Code § 15.2-926.3 to authorize a political subdivision, by ordinance or regulation, to regulate the take-off or landing of certain unmanned aircraft (drones) on property owned by the political subdivision in accordance with the rules and regulations adopted by the Department of Aviation. The bill requires the political subdivision to report the ordinance or regulation to the Department of Aviation and directs the Department to publish a summary on the Department’s website. The bill also directs the Department to develop by January 1, 2021 rules and regulations specific to take-offs and landings in consultation with representatives of the unmanned aircraft system industry, small and medium-sized businesses utilizing unmanned aircraft systems, localities, and other stakeholders. The bill has a delayed effective date of January 1, 2021.  
**Comment:** The rules and regulations to be promulgated by the Department of Aviation by January 1, 2021 include the “process for adoption of an ordinance or regulation.” If the Board considers implementing this bill, it would do so by ordinance only on those lands in the County. Because the County Office Building on McIntire Road is located in the City, the Board would adopt regulations, rather than an ordinance, for that property.
- F. **SB 941 Local government meetings; weather.** This bill adds Virginia Code § 15.2-111 to authorize localities’ public bodies, by resolution adopted at a regular meeting, to fix the day or days to which a regular meeting will be continued if the chair, or vice-chair if the chair is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting. The bill also requires that the findings be communicated to the members of the public body and the press as promptly as possible and that all hearings and other matters previously advertised be conducted at the continued meeting, and no further advertising is required.  
**Comment:** Virginia Code § 15.2-1416 already provides similar authority for localities’ governing bodies.
- G. **SB 977 Local governing body meetings; public comment.** This bill amends Virginia Code § 15.2-1416 to require a governing body to provide members of the general public with the opportunity for public comment during a regular meeting at least quarterly.
- H. **HB 1126 Abandoned, unattended, or immobile vehicles; minimum weight.** This bill amends Virginia Code §§ 46.2-1200 and 46.2-1209 to limit the application of the prohibition on, and remedies for, abandoned, unattended, or immobile vehicles to motor vehicles, trailers, or semitrailers that weigh at least 75 pounds.  
**Comment:** Although a first read may lead one to conclude that the bill was aimed to exempt motorized scooters from being subject to the prohibition, those vehicles, as well as electric power-assisted vehicles, are not “motor vehicles” as defined in Virginia Code § 46.2-100.
- I. **HB 1213 Authority of local government employees to issue summonses for misdemeanor violations of local ordinances.** This bill adds Virginia Code §15.2-1512.5 to authorize localities to appoint and train local government employees to enforce local ordinances by issuing summonses for misdemeanor violations of ordinances that are within the scope of the employee’s employment with the exception of traffic offenses and those offenses set forth in Title 18.2, Crimes and Offenses Generally. The bill provides that the employees’ power is limited to issuing summonses in their locality.  
**Comment:** The County has several health and safety, business license and taxation, and environmental regulations, among others, for which violations are enforced as misdemeanors rather than as civil penalties.
- J. **HB 854 Study; Department of Housing and Community Development and Virginia Housing and Development Authority; ways to incentivize the development of affordable housing in the Commonwealth of Virginia; report.** This uncodified bill requests the Department of Housing and

Community Development and the Virginia Housing and Development Authority to convene a stakeholder advisory group to: (1) determine the quantity and quality of affordable housing across the Commonwealth; (2) conduct a review of current programs and policies to determine the effectiveness of current housing policy efforts; (3) develop an informed projection of future housing needs in the Commonwealth and determine the order of priority of those needs; and (4) make recommendations for the improvement of housing policy in the Commonwealth.

**Comment:** Localities should expect that there will be more affordable housing bills during the 2021 General Assembly session.

## 5. Human Rights

- A. **HB 696 Local human rights ordinances; sexual orientation and gender identity.** This bill amends Virginia Code § 15.2-965 to enable localities to adopt ordinances that prohibit discrimination in housing, employment, public accommodations, credit, and education on the basis of sexual orientation and gender identity.

**Comment:** The Virginia Human Rights Act (Virginia Code § 2.2-3900 *et seq.*) was similarly amended in a different bill, which is important because Virginia Code § 15.2-965 requires that a locality's ordinance may not be "inconsistent with nor more stringent than any applicable state law."

## 6. Labor and Employment

- A. **HB 582/SB 939 Labor and employment; collective bargaining; employees of counties, cities, and towns.** This bill amends Virginia Code §§ 40.1-55, 40.1-57.2, and 40.1-57.3 to authorize localities to adopt ordinances authorizing them to: (1) recognize any labor union or other employee association as a bargaining agent of any public officers or employees, except for Constitutional officers and their employees, and including public school employees; and (2) collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter relating to them or their employment. The bill provides that if a locality's governing body has not adopted an ordinance or resolution providing for collective bargaining, the governing body is required, within 120 days of receiving certification from a majority of public employees in a unit considered by the employees to be appropriate for the purposes of collective bargaining, to take a vote to adopt or not adopt an ordinance or resolution to provide for collective bargaining by the public employees and any other public employees deemed appropriate by the governing body. The bill also provides that the prohibition against striking for public employees applies, irrespective of any such local ordinance. Lastly, the bill has a delayed effective date of May 1, 2021.

## 7. Land Use and Development

- A. **HB 554 Zoning for wireless communications infrastructure.** This bill amends Virginia Code § 15.2-2316.4:2 to authorize a locality to disapprove an application submitted for an administrative review-eligible project or for any zoning approval required for a standard process project that proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan, because the applicant did not give written notice to adjacent landowners at least 15 days before it applied to locate a new structure in the area.

**Comment:** This enabling authority is self-executing; an ordinance is not required.

- B. **HB 585 Comprehensive plan; transit-oriented development.** This bill adds Virginia Code § 15.2-2223.4 to require each city with a population greater than 20,000 and each county with a population greater than 100,000 to "consider" incorporating into the next scheduled and all subsequent reviews of its comprehensive plan strategies to promote transit-oriented development for the purpose of reducing greenhouse gas emissions through coordinated transportation, housing, and land use planning. The strategies to promote transit-oriented development may include: (1) locating new housing development, including low-income, affordable housing, in closer proximity to public transit options; (2) prioritizing

transit options with reduced overall carbon emissions; (3) increasing development density in certain areas to reduce density in others; or (4) other strategies designed to reduce overall carbon emissions in the locality.

- C. **HB 655/SB 870 Special use permit for solar photovoltaic projects.** This bill adds Virginia Code § 15.2-2288.8 to authorize a locality to include in its zoning ordinance provisions for a special use permit for any solar photovoltaic (electric energy) project. The bill authorizes the governing body of the locality to impose a condition that includes: (1) the dedication of real property of substantial value; or (2) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of the special use permit, so long as the conditions are reasonably related to the project.

**Comment:** This bill expands the range of conditions that a governing body may typically impose to address the impacts of a special use, provided that the conditions are reasonable and reasonably related to the project. The language used in (1) and (2) is similar to the language related to establishing vested rights in a proffered rezoning.

- D. **SB 589 Zoning administrators; notice of decisions and determinations.** This bill amends Virginia Code § 15.2-2286 to require a zoning administrator to provide to any adjacent property owner a copy of any decision or determination that could impair the ability of the adjacent property owner to satisfy the minimum storage capacity and yield requirements for a residential drinking well.

**Comment:** Because it is likely that, in most cases, there will be uncertainty as to whether a decision or determination might trigger the notice required by this bill, the better practice will be to provide copies of any decisions or determinations that might allow any water consumption to all adjacent property owners on residential drinking wells.

## 8. **Law Enforcement and Public Safety**

- A. **SB 149 Courthouse and courtroom security; assessment.** This bill amends Virginia Code § 53.1-120 to increase from \$10 to \$20 the maximum amount a local governing body may assess against a convicted defendant as part of the costs in a criminal or traffic case in district or circuit court to fund courthouse and courtroom security.

**Comment:** This fee is imposed by County Code § 1-306, which would need to be amended to increase the fee to the new maximum.

- B. **HB 343/SB 465 Donation by locality of in-kind resources to certain volunteer or nonprofit organizations.** This bill amends Virginia Code § 15.2-953 to expand the scope of permitted in-kind donations by a locality to include the provision of in-kind resources for contract management services for capital projects; assistance in preparing requests for information, bids, or proposals; and budgeting services to any association or other organization furnishing voluntary firefighting services or a nonprofit or volunteer emergency medical services agency.

**Comment:** This bill was one of the Board's legislative priorities for 2020.

- C. **SB 1088 Emergency medical services agency; dissolution; return of property purchased with public funds.** This bill amends Virginia Code § 32.1-111.4:7 to provide that, upon dissolution of a nongovernmental emergency medical services agency, any property that was in the possession of the emergency medical services agency and was purchased using public funds must be offered to a city or county served by the emergency medical services agency to be used for the public good.

- D. **HB 1250 Community Policing Act; data collection and reporting requirement.** This bill adds Virginia Code §§ 9.1-191, 15.2-1609.10, 15.2-1722.1, and 52-30.1 through 52-30.4 to prohibit law-enforcement officers and State Police officers from engaging in bias-based profiling, defined in the bill, in the performance of their official duties. The bill directs the Department of State Police (the Department) to create the Community Policing Reporting Database into which sheriffs, police forces, and State Police officers report certain data pertaining to motor vehicle or investigatory stops. The Department is directed to provide access to the database to the Department of Criminal Justice Services (DCJS) for the purpose of analyzing motor vehicle and investigatory stops and records of complaints alleging the use of excessive force. The data analysis is to be used to determine the existence and prevalence of the practice of bias-based



profiling and the prevalence of complaints alleging the use of excessive force. The bill requires that each time a local law-enforcement officer or State Police officer stops a driver of a motor vehicle the officer collect the following data based on the officer's observation or information provided to the officer by the driver: (1) the race, ethnicity, age, and gender of the person stopped; (2) the reason for the stop; (3) the location of the stop; (4) whether a warning, written citation, or summons was issued or whether any persons were arrested; (5) if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; and (6) whether the vehicle or any person was searched. The bill requires each State and local law-enforcement agency to also collect and report to the State Police the number of complaints the agency receives alleging the use of excessive force. The bill also requires the Director of DCJS to annually report the findings and recommendations resulting from the collection, analysis, and interpretation of the data from the Database to the Governor, the General Assembly, and the Attorney General beginning July 1, 2021. The report must include information regarding any State or local law-enforcement agency that has failed or refused to report the required data. A copy of the report must be provided to each Commonwealth's Attorney of the county or city in which a reporting law-enforcement agency is located.

- E. **HB 1442 Photo speed monitoring devices; civil penalty.** This bill amends Virginia Code §§ 46.2-208 and 46.2-882 and adds Virginia Code § 46.2-882.1 to authorize State and local law-enforcement agencies to operate photo speed monitoring devices, defined in the bill, in or around school crossing zones and highway work zones for the purpose of recording images of vehicles that are traveling at speeds of at least 10 miles per hour above the posted school crossing zone or highway work zone speed limit within the school crossing zone or highway work zone when the zone is indicated by conspicuously placed signs displaying the maximum speed limit and that photo speed monitoring devices are used in the area. The maximum civil penalty that may be imposed for a violation is \$100.

## 9. School Transportation

- A. **HB 351/SB 324 School bus drivers; critical shortages.** This bill amends Virginia Code §§ 22.1-23, 22.1-70.3, 22.1-79, and 51.1-155 to require the Superintendent of Public Instruction, with the assistance of each school board or division superintendent, to survey each local school division to identify critical shortages of school bus drivers by geographic area and local school division and to report any such critical shortage to each local school division and to the Virginia Retirement System. The bill permits any school bus driver hired by a local school board in any geographic area or school division in which a critical shortage of school bus drivers has been so identified to elect to continue to receive a service retirement allowance during employment if the driver meets certain other conditions.  
**Comment:** State law already requires that critical shortages of teachers and administrative personnel be identified.

## 10. Taxation

- A. **HB 785/SB 588 Local tax authority.** This bill amends numerous sections of Title 58.1 of the Virginia Code relating to local taxing authority:

**Admissions tax:** The bill amends Virginia Code § 58.1-3818 to authorize most counties to impose an admissions tax, not to exceed a 10 percent rate. Under the prior law, only Arlington, Brunswick, Dinwiddie, Fairfax, and Prince George Counties could impose an admissions tax. A county may elect not to levy an admissions tax on admission to an event if its purpose is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to one or more entities exempt from the sales and use tax. certain counties may impose an admissions tax. This enabling authority became effective July 1, 2020.

**Comment:** If the County imposes an admissions tax, it may not be imposed on and collected for University of Virginia events to which the tax might otherwise apply. A 2001 opinion of the Virginia Attorney General concluded that, based on several longstanding principles, a locality may not require a state university to collect an admissions tax in the absence of express statutory authority. The statute in issue (Virginia Code § 58.1-3817) has not been amended since that 2001 opinion.

**Cigarette tax:** The bill amends Virginia Code § 58.1-3830 to authorize any county, city, or town to levy taxes on the sale or use of cigarettes. For counties, the maximum tax rate is two cents per cigarette (40 cents per pack) sold; the same rate applies to cities and towns, except those cities or towns that had a tax rate exceeding two cents per cigarette sold on January 1, 2020, in which case the higher rate applies. This enabling authority becomes effective July 1, 2021.

**Comment:** A 2015 draft citizen advisory committee report estimated that Albemarle County could generate \$1,000,000 per year in revenue from a cigarette tax based on a tax rate of one and one-half cents per cigarette (30 cents per pack).

**Food and beverage tax:** The bill amends Virginia Code § 58.1-3833 to, among other things, increase the maximum tax rate on food and beverages from four to six percent. The bill also eliminates the requirement that a county hold a successful referendum before imposing a food and beverage tax. This enabling authority became effective July 1, 2020.

**Comment:** See HB 342, below, for a new exemption from the food and beverage tax.

**Transient occupancy tax:** The bill amends Virginia Code § 58.1-3819 and other sections (not applicable to Albemarle County) to eliminate the limit on the rate of transient occupancy tax that a county may impose. The bill requires that any revenue attributable to a rate over two percent but not exceeding five percent must be dedicated to tourism marketing (as Albemarle County does under the current enabling authority). This enabling authority becomes effective May 1, 2021.

**Division of Legislative Services:** Section 5 of the bill (uncodified) directs the Division of Legislative Services to “identify the different legal authorities and requirements that apply to cities and counties that are not related to taxation, including those related to the provision of local services and related to sovereign immunity.” The Division is directed to submit a summary of its recommendations and a draft of any recommended changes to the Chairs of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations by October 31, 2020.

**B. HB 342 Food and beverage tax; exemption for farmers market and roadside stand sales up to \$2,500.** This bill amends Virginia Code §§ 58.1-3833 and 3340 to exempt from the food and beverage tax sales by sellers at local farmers markets and roadside stands if the sellers’ annual income from those sales does not exceed \$2,500. The bill defines the sellers’ annual income as income from sales at all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax.

**Comment:** This exemption is self-executing.

**C. HB 1021 Personal property tax; forest harvesting machinery and equipment.** This bill amends Virginia Code §§ 58.1-3505 and 58.1-3506 to enable a locality to exempt from tangible personal property taxes certain farm machinery and farm implements such as that used for forest harvesting and silvicultural activities.

**Comment:** The Board has received a request from the Virginia Loggers Association, Inc. requesting the Board to create the exemption. Exemptions for certain other classes of farm machinery and equipment are already enabled.

**D. HB 466 Business license waivers.** This bill amends Virginia Code § 58.1-3703.1 to enable localities with a population greater than 50,000 to waive license requirements for businesses with gross receipts of \$200,000 or less. Current law limits the waiver to businesses with gross receipts of less than \$100,000.

**Comment:** The County’s current gross receipts threshold established by County Code § 8-500 is \$100,000.

## **11. Telecommunications and Utilities**

**A. HB 1280 Electric utilities; broadband capacity.** This bill amends Virginia Code § 56-585.1:9 to authorize electric utilities to lease to any third party that is a wholesaler and that is not a government-owned broadband authority, for the purposes of providing broadband connectivity.

**Comment:** Virginia Code § 56-585.1:9 was adopted in 2019 to establish a limited pilot program authorizing electric utilities to establish pilot programs to provide broadband capacity to nongovernmental Internet service providers in areas of the Commonwealth unserved by broadband, and to recover the costs for providing that capacity from utility customers. This bill expands the program to authorizes the leases described above, and to allow the leases to extend beyond the three-year period of the pilot program.