

2002 GENERAL ASSEMBLY SESSION

Governor's Amendments and Vetoes



The Governor has recommended amendments to 75 bills passed by the 2002 General Assembly and has vetoed 1 other. The staff of the Division of Legislative Services prepared the following summaries to assist members of the General Assembly in their deliberations during the April 17 Reconvened Session. The summaries, arranged in numerical order by bill number, highlight the major impact of the Governor's recommendations on each bill. I hope you will find the information useful.

— E. M. Miller, Jr., Director

Governor's Amendments

HB 30. *Budget Bill. Appropriations for the 2002-04 biennium.* Summary of amendments is available from money committee staffs.

HB 55. *Chancery Court of City of Richmond; deletes obsolete references.* Technical amendments.

HB 89. *Special license plates.* Governor's amendments eliminate "revenue sharing" component of the "United We Stand" plate. The plate would then be subject to the standard \$10 annual surcharge instead of the \$25 annual surcharge for revenue sharing plates. There are also technical amendments.

HB 99. *General obligation bonds for educational facilities.* The Governor's amendment in the nature of a substitute (i) revises some of the procedures regarding the Governor's preparation of a plan for the execution of capital projects contained in the bill and removes the mandate that such plan be a precondition to the issuance of the bonds, and (ii) appropriates \$125,000 to the State Board of Elections to cover the costs of carrying out the referendum. There are no changes to any of the capital projects.

HB 106. *Posting of "In God We Trust" in local government administrative buildings.* Amendment requires that all costs of posting such statement be paid for with public funds and prohibits local governing bodies from soliciting or accepting donations for such purpose.

HB 108. *Posting "In God We Trust" in all schools.* Amendment makes posting of statement regarding the National Motto permissive rather than mandatory, requires these postings to be supported by public funds, and prohibits school boards from soliciting donations for the posting.

HB 294. *Child abuse and neglect investigations.* Amendment clarifies that mandatory reporters of child abuse and neglect may not disclose information if such disclosure violates the federal Family Educational Rights and Privacy Act.

HB 301. *Sight-seeing carriers by boat and special or charter party carriers.* Technical amendments.

- HB 302. *Release of deed of trust or other lien.* Technical amendments.
- HB 324. *Civil liability for drug dealers.* Technical amendment to clarify the statute of limitations.
- HB 385. *Special license plates.* Governor's amendments convert the "Court Appointed Special Advocate" special license plate to a "revenue sharing" plate. This would increase the \$10 annual surcharge for these plates to a \$25 annual surcharge. For each set of these plates sold beyond 1,000 sets, \$15 per set will go to the Department of Criminal Justice Services to be used to fund Court Appointed Special Advocate Programs in Virginia. There are also technical amendments.
- HB 432. *Carrying firearms during period of protective order.* Amendment conforms bill to SB 46 by removing the word "knowing."
- HB 438. *Lottery Proceeds Fund.* The amendment clarifies the fact that the lottery revenues will be paid into the Lottery Proceeds Fund instead of the general fund and that money can be used to inform the public of that fact.
- HB 452. *Sex Offender Registry.* Clarifying and technical corrections.
- HB 498. *School safety personnel.* The Governor's amendment corrects a cross-reference to definitions section; corrects last section to clarify that local school boards employ school security officers, but not school resource officers, who are employed by local law-enforcement.
- HB 531. *Department of Professional and Occupational Regulation; tattoo parlors and body-piercing salons.* The Governor's amendments restore provisions authorizing localities to regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons by ordinance.
- HB 541. *Property and passenger carriers.* Technical amendments.
- HB 547. *Limitation of civil lawsuits by prisoners.* Amendment clarifies that when an action is filed in an improper court it may be moved to the proper court.
- HB 560. *Health; pharmaceutical assistance.* The Governor's amendment reiterates the fact that the pharmaceutical resource and referral information program will not become effective until funds are provided for its operation.
- HB 606. *Speeding; prepayment of fines.* Technical amendments.
- HB 671. *Forfeiture of driver's license for driving while intoxicated.* This bill provides that a person loses his license for 3 years if convicted of driving while intoxicated for the second time in 10 years. The Governor's amendment corrects a misstatement in current law and does not relate to the amendments to this section as passed by the General Assembly.
- HB 734. *Charter schools.* The Governor's amendment in the nature of a substitute retains the substance of the bill as it passed the House and the Senate and eliminates conflicts with SB 625 by moving the provision relating to the authority of institutions of higher education to file applications with local school boards for charters and making minor changes to the language relating to annual evaluations of charter schools.
- HB 819. *Identity of persons communicating anonymously over the Internet.* This bill provides a procedure governing subpoenas in certain civil proceedings. One of the Governor's amendments is technical, the other is clarifying to make the form of the subpoena language consistent with the related statutory provisions.
- HB 894. *Mutual aid agreements for law enforcement.* Amendment clarifies that state supported institutions of higher education that are located in contiguous localities have the same authority as localities to enter into such agreements.
- HB 910. *Advanced Shipbuilding and Carrier Integration Center.* The Governor's amendments extend all provisions related to the Advanced Shipbuilding and Carrier Integration Center from June 30, 2004, to June 30, 2006. Without the amendments only the period for awarding the operations grants would be extended.
- HB 918. *Eminent domain; owners of fee interest, buildings and improvements.* Technical amendment to insert correct versions of Code sections, necessitated by repeal of a sunsetting clause by HB 844 and SB 107.

HB 922. *Exemplary damages for persons injured by intoxicated drivers.* This bill changes the standard for a defendant's conduct in order to be deemed willful and wanton as to show a conscious disregard for the rights of others when the defendant has a certain blood alcohol level. The Governor's amendment makes the same change for the situation when a person refuses to submit to a blood alcohol test.

HB 940. *Payday lending.* The Governor's amendment directs the SCC and VDACS to report to the Governor and Commerce and Labor committees on the status of payday lending, including recommendations for implementing and revisiting the Act, ways to encourage financial institutions to market small loans, and information regarding any federal action in this area.

HB 951. *Criminal background check required for employees of gun dealer.* Technical amendment to clarify that the prohibition applies to either Code section.

HB 1001. *Custody and visitation.* Amendment inserts a delayed effective date of July 1, 2003.

HB 1030. *Speed limits in cities.* Technical amendments.

HB 1066. *Property loaned to museums.* Technical amendments.

HB 1144. *General obligation bonds for parks and natural areas.* The Governor's amendment in the nature of a substitute (i) revises some of the procedures

regarding the Governor's preparation of a plan for the execution of capital projects contained in the bill and removes the mandate that such plan be a precondition to the issuance of the bonds, and (ii) appropriates \$125,000 to the State Board of Elections to cover the costs of carrying out the referendum. There are no changes to any of the capital projects.

HB 1230. *DNA testing.* Amendment comports this bill with the changes made to the same section in SB 633. The bills are identical with this amendment.

HB 1282. *Political activities of deputies, appointees, and employees of constitutional officers.* Amendment includes deputies, appointees and employees of constitutional officers in existing provisions that prohibit certain local employees from engaging in various types of coercive or inappropriate political activity.

HB 1284. *Virginia Public Building Authority and Virginia College Building Authority capital projects.* The Governor's amendments (i) revise some of the procedures regarding the Governor's preparation of a plan for the execution of capital projects contained in the bill and remove the mandate that such plan be a precondition to the issuance of the bonds; (ii) replace the \$5,000,000 Phase I Capitol Square Renovations project with a \$34,300,000 project to make Phase I Improvements at the Seat of Government including the Capitol Square Master Plan, the Supreme Court Building, and the Old State Library renovations; (iii) increase the funding for renovating a technology building at Norfolk State University from \$598,000

to \$8,850,000 and add a \$1,000,000 project at NSU to increase student access to technology; and (iv) provide some flexibility to the order in which projects are to be undertaken.

HB 1285. *Capital improvement plan.* The bill, as passed, required the Governor to prepare a six-year capital improvement plan by August 15 in every odd-numbered year and to submit the same to the General Assembly. The bill also created a special fund from which non-recurring expenditures were to be paid, such expenditures to include acquisition and construction costs for capital projects, the acquisition of land, and the acquisition of equipment. The bill provided that the special fund consist of (i) the amount of unobligated and undesignated general fund revenues at the end of each fiscal year, and (ii) the projected above-average growth in nonwithholding individual income taxes for the fiscal year. The Governor's amendment requires that the capital improvement plan be prepared and submitted by November 1. The amendment also eliminates the special fund and provides that only year-end general fund balances that are not otherwise reserved or designated be appropriated for nonrecurring expenditures.

HB 1292. *Equipment Dealers Protection Act.* The Governor's recommendation eliminates the requirement of a supplier to provide a dealer with a 60-day period to cure any deficiencies in a case where the dealer fails to charge retail prices suggested by the supplier.

HB 1346. *Teaching Scholarship Loan Program*. The Governor's amendment clarifies that the Board of Education defines, in its regulations, critical teacher shortage areas, including teacher shortages in grade levels and disciplines, as may be identified by local school divisions.

SB 23. *Concealed weapon permits*. Technical amendment.

SB 31. *See* HB 99.

SB 39. *Commercial motor vehicles; State Police authority*. Technical amendments.

SB 50. *See* HB 438.

SB 134. *Freedom of Information; exemptions relating to terrorism*. Adds an emergency clause.

SB 148. *Possession of open container of alcohol in a motor vehicle; penalty*. The bill, as passed, creates a rebuttable presumption that the driver has consumed an alcoholic beverage if (i) an open container is located in the passenger area of a motor vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed and (iii) the appearance, conduct, odor of alcohol, speech or other physical characteristic of the driver may be reasonably associated with the consumption of an alcoholic beverage. A violation is punishable as a Class 4 misdemeanor. The Governor's amendment in the nature of a substitute reflects the bill as introduced; it provides that no

person shall possess an alcoholic beverage in the passenger area of a motor vehicle in any container other than the manufacturer's unopened, original container. A violator is subject to a civil penalty of \$25.

SB 150. *Court fees*. Establishes fixed fees for proceedings for misdemeanors, traffic infractions and other violations in district and circuit court. The Governor's amendment in the nature of a substitute is intended to reconcile conflicts with other bills and provides a delayed effective date of July 1, 2003.

SB 153. *Circuit court clerks*. The Governor's amendment strikes language in the bill that would have allowed a court to grant the clerk of court the power to issue prisoner transportation orders on the court's behalf.

SB 156. *Telecommunications/state agencies*. The Governor's amendment directs the Secretary of Public Safety to report to the Governor and the money committees on implementation of the JLARC recommendations regarding inmate telephone calls and to address future procurement of telecommunications contracts, including reducing costs to inmates' families and the fiscal impact of doing so.

SB 162. *Driver's licenses; commercial driver's licenses*. Technical amendments.

SB 264. *Sharing of protected health information between state agencies*. Technical amendment.

SB 295. *See* HB 498.

SB 334. *Career and technical education*. Amendment eliminates annual reporting of career and technical education program plans to the Superintendent of Public Instruction and the Chancellor of the Community College System; reports will be made to the Superintendent of Public Instruction in accordance with timelines established by federal law.

SB 362. *Virginia War Memorial Foundation; possession of certain military medals*. Adds an emergency clause.

SB 402. *See* HB 1285.

SB 406. *Sheriff's processing fee*. The Governor's amendment adds regional jails to the bill's provision that any county or city may authorize a processing fee on individuals admitted to a county or city jail following conviction.

SB 433. *Underground utility damage*. Technical amendment.

SB 445. *Virginia Fraud Against Taxpayers Act*. Technical amendments.

SB 460. *Roanoke River Basin Bi-State Commission*. The Governor's amendment in the nature of a substitute corrects several technical difficulties regarding the creation of the Virginia Roanoke River Basin Advisory Committee and the Roanoke River Basin Bi-State Commission, clarifies the membership of both bodies, and provides for the compensation and reimbursement of expenses of members of

the Virginia General Assembly appointed to serve on the advisory committee.

SB 470. *Child support orders; health care coverage.* Amends the definition of "reasonable cost" pertaining to health care coverage in child support cases to reinstate the current definition, and amends the new definition by removing the more specific "five percent" limit on insurance premiums for dependent children and instead requires a percentage of a parent's gross income as established by federal regulation.

SB 527. *Property; release of liens.* Amendment inserts language (formerly in slightly different form and stricken from the bill) that allows a lien creditor to record a release deed on behalf of the lien debtor, upon payment in full, in lieu of issuing a certificate of satisfaction.

SB 576. *Northern Virginia Transportation Authority.* The Governor's amendment in the nature of a substitute (i) modifies the membership of one of the two nonvoting members of the Authority by replacing the District Administrator of the Northern Virginia Highway Construction District with the Commissioner of the Virginia Department of Transportation; (ii) requires the Authority to report annually on the allocation and expenditure of all funds and the ways in which such expenditures reduce traffic congestion and improve air quality in the northern Virginia area; and (iii) makes several technical modifications.

SB 592. *Solid and hazardous waste and water permits; fees.* The Governor's amendment in

the nature of a substitute establishes the Commonwealth's Conservation Fund. The Fund will be capitalized by the proceeds from a five dollars per ton fee imposed on each ton of solid waste disposed of at every Virginia landfill. For facilities without a scale, two cubic yards of solid waste will be the equivalent of one ton. Each owner or operator of a landfill will be required to submit the fee quarterly. The new fee will begin to be assessed January 1, 2003. On that date, the authority for the Virginia Solid Waste Board to promulgate a fee schedule to cover up to 20 percent of the hazardous and solid waste programs will sunset. The moneys in the Fund will be expended in the following manner:

- Forty percent to the Virginia Land Conservation Fund to secure easements to be held or co-held by a public body;
- Thirty-five percent to localities to support local conservation efforts and natural resources protection and protection and enhancement initiatives;
- Nineteen percent to the Water Quality Improvement Fund;
- Five percent to the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund; and
- One percent to DEQ to cover the costs of administering the Fund and to assist in implementing the agency's environmental protection programs.

SB 595. *Child Day-Care Council; membership.* Technical amendment.

SB 596. *Child day-care centers; qualifications.* Technical amendment.

SB 602. *Conviction of a serious driving offense.* Reinstates the requirement, as in the original bill, that a death occur as a result of a serious, relatively serious or less serious traffic offense in order to trigger the court's option of driver's license suspension.

SB 608. *See* HB 108.

SB 610. *Geographic Information System; Department of Technology Planning; Planning District Commissions; Department of Health; pilot project with the Centers for Disease Control and Prevention created.* Amendment clarifies that contracting with the private sector to provide any goods and services necessary to carry out the purposes of the act is permissive.

SB 625. *Charter schools.* Amendment clarifies provisions requiring reporting of the grant or denial of charter school applications to conform to HB 734.

SB 646. *Virginia Breeders Fund; Virginia-sired horses.* Adds an emergency clause.

SB 663. *Unemployment compensation; weekly benefit amount.* As passed, the bill provided a 37.3 percent unemployment benefit increase above pre-September 2001 levels through January 2003, then an 18.75 percent increase above pre-September 2001 levels through January 2004. The Governor's recommendation extends the 37.3 percent increase through July 2003, but leaves the 18.75 percent increase through January 2004.

SB 668. *Regional Transportation Programs*. The bill, as passed, established a regional transportation program for Eastern Virginia. The Governor's amendment establishes an additional transportation program for Northern Virginia, the Northern Virginia Regional Transportation Program. This program authorizes the Northern Virginia Transportation Authority to issue bonds in a principal amount up to \$2.8 billion for transportation projects in Northern Virginia. The amendment also provides for a one-half percent sales and use tax in the Eighth Planning District beginning July 1, 2003, to pay debt service on the bonds. The sales and use tax, the authority to issue bonds, and the Northern Virginia Regional Transportation Program shall not become effective unless the question of whether such tax shall be imposed is affirmed by the voters of the Eighth Planning District in a regional referendum to be held on Tuesday, November 5, 2002.

SB 672. *See* HB 1144.

SB 673. *See* HB 1284.

SB 683. *Statewide Fire Prevention Code; fireworks*. The Governor's amendments (i) exempt members of the armed forces of the Commonwealth or the United States while acting within their scope of authority and duty from application of the fireworks law, and (ii) authorize a law-enforcement officer arresting a person for violation of the fireworks law to seize fireworks in the possession or control of the person being arrested.

SB 689. *Birth-Related Neurological Injury Compensation Program*. Amendment adds the Governor to the list of recipients of the required annual investment reports from the board of directors.

Veto

HB 1154. *Medically induced infanticide; penalty*. As passed, the bill would prohibit doctors from performing a certain late-term abortion procedure. In his veto message, the Governor indicated that although he finds the procedure "deeply troubling" and that he would sign a "bill limiting that procedure if the bill appears to be constitutional," he is "not persuaded . . . that HB 1154 satisfies the constitutional requirements articulated by our nation's highest court." He states further that "allowing HB 1154 to become law would result in a costly and protracted legal challenge, with no ultimate benefit to the citizens of Virginia."

***Bills Returned by the Governor to
the Regular Reconvened Session (1983-2002)***

YEAR	GOVERNOR	AMENDMENTS	VETOES	TOTAL UNSIGNED*	BILLS APPROVED	PERCENT RETURNED
1983	Robb	39	25	64	647	9.9
1984		24	28	52	807	6.4
1985		28	23	51	640	8.0
1986	Baliles	51	4	55	649	8.5
1987		85	1	86	725	11.9
1988		107	8	115	915	12.6
1989		77	7	84	752	11.2
1990	Wilder	82	8	90	980	9.2
1991		83	19	102	742	13.7
1992		82	13	95	916	10.4
1993		110	13	123	1010	12.2
1994	Allen	160	20	180	995	18.1
1995		153	11	164	867	18.9
1996		151	9	160	1066	15.0
1997		155	11	166	933	17.8
1998	Gilmore	147	24	171	939	18.2
1999		118	13	131	1062	12.3
2000		60	16	76	1014	7.5
2001		91	7	98	785	12.5
2002	Warner	74	1	75	899	8.3

*Total unsigned does not include line item vetoes (Budget Bills).

Sources: House and Senate Journals, House and Senate Calendars, and Acts of Assembly
Division of Legislative Services, 4/17/02

