

2006 GENERAL ASSEMBLY SESSION

Governor's Amendments and Vetoes



The Governor has recommended amendments to 123 Bills passed by the 2006 Session of the General Assembly and has vetoed seven. 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 19 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 64. Public Procurement Act; transportation-related projects. The enrolled bill increases the amount of required bid, payment, and performance bonds from \$100,000 to \$250,000 for transportation-related projects that are partially or wholly funded by the Commonwealth. The amendments increase the bid, payment, and performance bonds for all construction projects from \$100,000 to \$250,000.

HB 70. Assault and Battery; school bus drivers, penalty. The enrolled bill provides that school bus drivers and school bus driver aides are not guilty of assault or assault and battery when they use reasonable and necessary force to quell a disturbance. The amendment in the nature of a substitute conforms

language and language placement to SB 26. HB 70, as enrolled, did not include bus driver aide in the "protected class." SB 26 did include school bus driver aides in the protected class.

HB 111. All-terrain vehicles. Technical amendment.

HB 122. Public Procurement; SWAM Businesses. The amendments remove the definition of "Eskimo or Aleut" and replace the term "legal resident alien" with the term "non-citizen who is in full compliance with United States immigration law." There are also technical amendments.

HB 141. Impact fees for transportation. The amendment reinserts Frederick County to the list of localities authorized to impose impact fees for transportation.

HB 143. Highways, bridges, and interchanges. The enrolled bill provided that the

Commonwealth Transportation Board's power to name highways extended to bridges and interchanges as well, but prohibited using names of living persons. The amendment would further require that (i) the Department of Transportation place and maintain appropriate signs indicating the names of highways, bridges, and interchanges named by the Board or by the General Assembly; (ii) the costs of producing, placing, and maintaining these signs must be paid by the counties, cities, and towns in which they are located; and (iii) no name can be given to any state highway, bridge, or interchange by the Commonwealth Transportation Board unless and until the Commonwealth Transportation Board receives a resolution requesting such action from the local governing body of the locality within which a portion of the facility to be named is located.

HB 170. Voter registration; non-citizens. The enrolled bill requires the Department of Motor Vehicles to furnish the State Board of Elections with monthly lists of license applications indicating non-citizen status, requires the State Board to forward this information to general registrars, and requires general registrars to cancel voter registrations based on reports from the Department of Motor Vehicles. The amendments eliminate the requirements applicable to the Department of Motor Vehicles and require general registrars to cancel voter registrations of voters "known" not to be United States citizens. The amendments direct the State Board of Elections to institute procedures to enforce this cancellation requirement, including the enrolled bill requirement that registrars notify by mail non-citizens whose registrations are being cancelled.

HB 216. Standards of Learning; remediation programs. The amendment in the nature of a substitute conforms HB 216 to SB 67, to avoid any conflict in the law.

HB 250. Motor vehicle registration and license plates. The enrolled bill provides for the issuance of "temporary registrations" by vehicle dealers instead of temporary "certificates of ownership" and also provided for use of electronic records in connection with temporary registrations. The amendment would allow a person to whom "temporary registration" has been issued to return a vehicle to the dealer, prior to issuance of a title to the vehicle, without

providing written notice to the dealer of his intent to do so. The enrolled bill requires this notice to be in writing.

HB 339. Veterinarians to provide vaccination certificate. The enrolled bill requires veterinarians to forward, within 45 days of the rabies vaccination of a dog, the rabies vaccination certificate to the treasurer of the locality in which the vaccination occurred. The amendment delays the effective date of the Act from January 1, 2007, to July 1, 2007.

HB 340. Regulation of dogs that may be dangerous. The enrolled bill punishes the owners of dangerous dogs that injure animals or humans with penalties ranging from a Class 2 misdemeanor to a Class 6 felony and establishes a dangerous dog registry. The bill allows localities to adopt an ordinance paralleling the statute. The substantive amendment makes it clear that a locality may not impose Class 6 felony penalties pursuant to the ordinance. This amendment also requires substantial renumbering. There are also two technical amendments.

HB 350. School for the Deaf & the Blind. The enrolled bill establishes that the Virginia School for the Deaf & the Blind at Staunton and the Virginia School for the Deaf, Blind & Multi-Disabled at Hampton will be combined into one facility to be located at Staunton. The bill also grants the Governor the authority to convey, without consideration, the Hampton facility and grounds to the New

Horizons Regional Education Center. The amendment in the nature of a substitute provides that the Board of Education will devise a plan for a regional program in Hampton Roads; and the property, with the Governor's approval, may be conveyed to an appropriate nonprofit or public entity to provide a regional program in the Hampton Roads area. See SB 676.

HB 370. Regulation of firearms by counties; hunting. The amendment provides that the provisions of the bill will not become effective unless reenacted by the 2007 Session of the General Assembly.

HB 432. State Corporation Commission and Workers Compensation Commission. Technical amendments ensure that the terms of members of the Workers Compensation Commission remain staggered.

HB 457. Conflicts of Interests Act. The amendments clarify that the exemption allowing for an employee's personal interest in a contract to acquire the collections or scholarly works owned by the employer is limited to situations where the governmental agency is a public institution of higher education. The amendments also clarify that required written finding that such a contract is in the best interests of the institution be provided by the president of the institution.

HB 466. School boards salaries; City of Hopewell and the County of Hanover. The amendment, a second enactment clause, allows the Hanover County School Board to obtain the statutorily authorized salary increase from \$2,400 to \$8,000, upon meeting the four specified conditions, i.e., (i) be appointed for staggered terms; (ii) be a seven-member school board that has not received a salary increase for 10 years; (iii) have an increase authorized in the bill; and (iv) have at least one member appointed in 2006. The Hanover County School Board must establish the increase prior to July 1, 2006, in order for it to become effective on January 2, 2007.

HB 468. Virginia Retirement System; sickness and disability plan. The amendment in the nature of a substitute is technical in nature and conforms the language of the bill to HB 459, which was adopted by the General Assembly and signed by the Governor. Both HB 468 and HB 459 had the same intent to clarify that an employee receiving benefits under the Virginia Sickness and Disability program must apply for social security benefits if requested to do so by the administrator of the plan. However, the language in the two bills would have created a conflict if both were signed into law.

HB 517. New College Institute created. The amendment provides

staggered terms for the Governor's initial appointees to the Board of New College Institute.

HB 543. Lobbyist registration and disclosure. As enrolled, the bill raised the reporting thresholds for gifts from \$25 to \$50, and for any single entertainment event from \$50 to \$100. The amendments would change the bill by reverting to the original thresholds.

HB 588. Machete; penalty. The enrolled bill punishes the brandishing of a machete in the same manner as brandishing a firearm. The amendment removes the provision granting civil immunity to a police officer for injuries or death resulting from the arrest of someone who brandishes a machete.

HB 601. Alcoholic beverages; license taxes for wholesale beer and wine licensees. The amendment clarifies that a brewery that operates an amusement park (Anheuser-Busch) may sell beer to that amusement park (Busch Gardens).

HB 646. DMV; Civil Air Patrol Technical amendments.

HB 709. Waste disposal; civil penalty. As enrolled, the bill allows the City of Roanoke to impose a civil penalty without further notice for the non-removal of waste containers after the third notice. The amendment requires that the third notice included an opportunity for the owner to be heard.

HB 727. Adoption laws. The enrolled bill makes global changes to the adoption laws relating to in venue, timing of obtaining entrustments, consent procedures, and adoption methods. The enrolled bill, in addition to numerous other changes, provides that a parent placing their child up for adoption may seek counsel with a social worker during the process. The amendment by the Governor makes it mandatory that such person seek counsel from a social worker.

HB 730. Creation of a mutual consent adoption registry; sunset. The enrolled bill provided that the Department of Social Services would establish and maintain the Mutual Consent Adoption registry. The amendment instead gives these responsibilities to the Board of Social Services.

HB 771. Initiating Condemnation. The enrolled bill requires localities and other political subdivisions to hold a public hearing prior to adopting an ordinance or resolution initiating a condemnation. The amendment provides that when a local planning commission or the governing body has held a public hearing under § 15.2-2225 or subsection A of 15.2-2232, or the political subdivision is proceeding with activities defined in subsection C of § 15.2-2232, such hearing or other action shall meet the requirements of the bill.

HB 801. Interstate Public-Private Transportation Partnership Compact. The technical amendments conform the bill to SB 425.

HB 816. Recording devices in motor vehicles; ownership of recorded data; insurance policies; disclosure. The amendment would allow the agent or legal representative of the motor vehicle owner to contract with a third-party subscription service that requires access to recorded data. This bill is the same as SB 90.

HB 833. License plates; special. Technical amendments.

HB 846. Sex crimes against children. The technical amendments conform the wording to SB 559 and HB 984.

HB 856. Public Guardianship Program; authority to make funeral arrangements. As enrolled, the bill provides that when there is no known next of kin, a public guardian or conservator is authorized to make funeral or burial arrangements. The amendment strikes this amendment and sets forth more detailed conditions to be met by the public guardian or conservator in order to have the authority to make funeral, cremation, or burial arrangements for a client, i.e., (i) he is not aware of any person who has been otherwise designated to make the arrangements as provided in current law; and (ii) the next of kin of the incapacitated

person does not wish to make the arrangements and the public guardian or conservator has made a good faith effort to locate the next of kin to determine if the next of kin wishes to make the burial or funeral arrangements. Good faith effort must include contacting the next of kin identified in the petition for appointment of a guardian or conservator. The amendment also provides, upon satisfaction of these conditions, immunity from civil liability for funeral service licensees and establishments, registered crematoria, and public guardians or conservators for any act, decision, or omission resulting from acceptance of any dead body for burial, cremation, or other disposition unless the acts, decisions or omissions resulted from bad faith or malicious intent.

HB 889. Lead-based paint maintenance. Technical amendments.

HB 977. Shortline Railway Preservation and Development Fund; created. Technical amendments.

HB 984. Sex Offenders and Crimes Against Minors Registry Act. Amendment four would require the Department of State Police, in conjunction with the State Council of Higher Education and the Virginia Community College System, to develop guidelines concerning the transmittal of information to the State Police concerning students admitted to an institution of higher education

with an instantaneous admissions policy, in order to ensure compliance with the Federal Education Rights and Privacy Act. The other amendments are technical and clarifying in nature.

HB 996. Dental hygienists administering certain Schedule VI analgesia and anesthesia. Technical amendment.

HB 1000. Tolls; failure to pay, penalty. Technical amendments.

HB 1004. Office of Commonwealth Preparedness. The amendments add the Secretary of Technology to the Secure Commonwealth Panel.

HB 1010. Former cities of Clifton Forge and South Boston. The amendments would change the bill so that all references in §§ 24.2-302.1, 24.2-303.1, 24.2-303.2, and 24.2-304.01 to boundaries are interpreted, as required by the Code, to refer to those in existence on April 1, 2001, and as reported by the United States Bureau of the Census in the 2000 Census reports provided pursuant to United States Public Law §§ 94-171.

HB 1022. Pretrial motions or objections. Technical amendments.

HB 1038. Civil commitment of sexually violent predators. The amendments make three key changes to the bill: (i) amendments one and two would eliminate the review of certain offenders for possible

inclusion in the civil commitment program who scored a four on the Static-99 (or like instrument) if the sexually violent offense mandating the review was conviction of aggravated sexual battery, but the initial charge leading to this conviction was for rape, forcible sodomy, or object penetration; (ii) amendments three and four would allow, but not require, a court to consider certain factors, such as the nature of the offense, mental history, and results of actuarial tests when deciding whether to civilly commit or place an offender on conditional release; and (iii) amendment five would clarify that pursuant to an agreement between the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, probation and parole officers have the ability to provide supervision services to offenders placed on conditional release under the civil commitment of the sexually violent predators program. These amendments are identical to amendments recommended for the same provisions in SB 559.

HB 1039. *Recklessly controlling or handling dogs; penalty.* The enrolled bill punishes the owners of dangerous dogs that injure animals or humans with penalties ranging from a Class 2 misdemeanor to a Class 6 felony and establishes a

dangerous dog registry. The bill allows localities to adopt an ordinance paralleling the statute. The substantive amendment makes it clear that a locality may not impose Class 6 felony penalties pursuant to the ordinance. This amendment requires substantial renumbering. There are also two technical amendments. See SB 200 and HB 340.

HB 1040. *Methamphetamine precursor drugs.* The enrolled bill regulates the sale of methamphetamine precursors ephedrine and pseudoephedrine. The bill limits sales to three packages or 9 grams of either ephedrine or pseudoephedrine per transaction. It requires that (i) the product be kept within 30 feet and direct line of sight of a cash register or store counter; (ii) anti-theft devices be used; (iii) restricted shelving be used; or (iv) constant video surveillance of the product be used. The bill requires that records of all sales of ephedrine and pseudoephedrine be kept by retail sellers from July 1, 2006 through July 1, 2007. The bill makes exceptions for those products that are for children under the age of 12 and those products that are in liquid form. The amendment in the nature of a substitute states that no more than 3.6 grams of either ephedrine or pseudoephedrine may be sold daily per individual customer. The drug product shall be displayed for sale from behind a store counter or in a locked case requiring assistance by a store employee

for customer access. The amendment in the nature of a substitute requires that sellers maintain a log of each sale and requires the purchaser to sign the log, unless the individual is buying only a single package. The amendment does not limit the dates between which this log is to be actively kept, but the seller must keep each log two years from the sale date of the last entry in the log. The amendment makes exceptions for those products which the United States Attorney General determines cannot be used in the illicit manufacture of methamphetamine. See SB 146.

HB 1041. *Health maintenance organizations; Medicaid coverage.* Technical amendments.

HB 1047. *Enforcement of traffic light signals.* The bill as enrolled provides that the driver of any motor vehicle may be detained or arrested for a violation of running a red light if the detaining law-enforcement officer has received a message by radio or other wireless telecommunication device from another law-enforcement officer who observed the violation. The amendment removes the provision that such a person may be arrested, limiting the "stop" for a red-light violation to a detention.

HB 1055. *Air emissions control.* The enrolled bill establishes a phased schedule for electric generating units in Virginia to reduce their

emissions of sulfur dioxide, nitrogen oxide, and mercury. The amendment prohibits any facilities located in an ozone non-attainment area (i.e. Mirant) from purchasing allowances to meet their mercury compliance obligations.

HB 1066. Sex Offenders. The bill, as enrolled, provides that a child is deemed abused or neglected when his parent or guardian knowingly leaves him alone in a dwelling with an unrelated person whom the parent or guardian knows has been convicted of an offense against a minor requiring registration as a sex offender, under circumstances that create a substantial risk of physical or mental injury. The amendments move the provisions of the bill to a more logical location in the Code section and reword the language regarding the "substantial risk of physical or mental injury" to provide that the act of leaving the child must create the substantial risk of physical and mental injury. Under the original wording the offense would have to be done under "circumstances that create a substantial risk of physical or mental injury." A corrections impact statement is added.

HB 1108. Support orders. The enrolled bill provides that support orders shall be effective on the date of service and the first payment shall be due on the first day of the next month and every month thereafter. The enrolled bill as presented to the Governor

provided that a support order is effective upon service and that payment is due on the first day of the month thereafter. It also provided that the obligor would be liable for payment for the time between the effective date and the first of the month and that liability would be a prorating for the partial month based on the amount of the obligation. The amendment offered by the Governor states that the *initial* support order shall be effective upon service and become due on the first day of the month thereafter and that a modified support order shall be effective from the time that the notice of review is served on the nonrequesting party and that the first payment shall be due on the first day of the next month and the first day of every month thereafter. There also was a technical correction changing "fully" to "full."

HB 1119. Private roads; Warren County. Technical amendment.

HB 1163. International Driver's License. Technical amendments.

HB 1185. Water withdrawal permits. The enrolled bill allows riparian landowners to withdraw reasonable amounts of water for agricultural use as long as the withdrawals do not adversely impact other off-stream beneficial uses, fish and wildlife habitat, waste assimilation, or commercial navigation. The Department of Environmental Quality would be limited in the requirements it could impose as part of the

withdrawal permit issued to the riparian landowner. The amendment would allow the riparian landowner to withdraw a reasonable amount of water as long as the withdrawals (i) do not impact uses of other riparian landowners or (ii) other beneficial uses. The amendments also authorize the State Water Control Board to exempt from the permitting requirements those landowners withdrawing small amounts of water that have minimal impacts on other beneficial uses.

HB 1187. Electric authorities. The amendments are clarifying in nature. See SB 406.

HB 1192. Cash proffers; road improvements. The first two amendments are technical. The final amendment adds an emergency clause.

HB 1248. HOV lanes. Technical amendments.

HB 1258. Towing and recovery operators. Technical amendments.

HB 1290. Machinery and Tools Tax. The amendment deletes that portion of the bill declaring that idle machinery and tools are not machinery and tools that may be taxed by localities.

HB 1312. Laser speed detection devices. The enrolled bill eliminates the requirement that law-enforcement officers permit motorists to observe the readings on laser speed detection devices. The

amendment would allow officers to decline to show these readings only in circumstances where they believe that permitting motorists to observe such readings would create a threat to the officers' safety or to the safety of others.

HB 1333. Sex Offender Registry. The enrolled bill adds first offense child pornography possession and burglary with the intent to commit certain felony sex offenses as new Registry offenses if committed after July 1, 2006. Criminal homicide in conjunction with contributing to the delinquency of a child or child abuse is also added as a new Registry offense. The bill modifies the registration of a person convicted of murdering a child so that registration will be required if the victim is under 15 years of age and if the minor victim is 15 or older and the murder is related to a registerable sex offense. The bill adds burglary with the intent to commit certain felony sex offenses to the list of offenses, if committed twice that are deemed sexually violent offenses. The bill places murder on an equal footing with sexually violent offenses for purposes of registration. Persons convicted of sex offenses in a foreign country will be required to register. The bill makes a second or subsequent conviction for failing to register as a sex offender a Class 6 felony and a second or subsequent

conviction of failing to register as a violent sex offender a Class 5 felony. The amendment adds a third enactment clause stating that the provisions of the bill will not become effective unless an appropriation of the funds effectuating the purposes of the bill is included in the appropriations act passed by the 2006 Session of the General Assembly, which becomes law. There is also a technical amendment.

HB 1339. Peeping or spying; third offense. The enrolled bill creates a Class 6 felony for a third or subsequent conviction for an offense of peeping or spying and requires that any person convicted within 10 years of three or more designated misdemeanors shall register under the Sex Offender and Crimes Against Minors Registry. The amendment makes clear that the third offense creating the felony and registration requirement must occur on or after July 1, 2006.

HB 1340. Qualifications for providing home instruction. The amendment provides that the Department of Education shall monitor the bill's implementation and communicate any findings and make such recommendations as may seem appropriate to the 2008 Session of the General Assembly. See HB 499.

HB 1350. District court; remove case to circuit court. The enrolled bill provides for appeal by the Commonwealth of a District Court decision

holding a statute unconstitutional. The purpose of HB 1350 was to accomplish the same thing as SB 298, but HB 1350 was, as enrolled, substantially different and was passed by both houses prior to SB 298. The amendment in the nature of a substitute conforms this bill to SB 298.

HB 1352. Physician; definition. The enrolled bill adds podiatrists to the definition of physician. The technical amendment applies the new definition of "physician," as described in the original bill, to another bill, HB 1110, which was signed into law.

HB 1418. Line of Duty Act; payment of benefits. The bill, as it passed the General Assembly, would increase the benefit payable to the beneficiary of a person killed in the line of duty from \$75,000 to \$100,000. The amendments clarify that this increased benefit applies to an individual whose death occurred in the line of duty on or after January 1, 2006.

HB 1427. No Child Left Behind; elimination plan. The amendments provide that the Board of Education must develop a plan to identify, rather than eliminate, initiatives or conditions that are currently being funded by the federal act known as No Child Left Behind that are not an integral or necessary component of the Commonwealth's own Standards of Quality, Standards of Accreditation, or Standards of Learning. The amendments

also direct that the plan will include information on the consequences, including any potential loss of federal funding, if the Commonwealth elects to not comply with the identified components. See SB 410.

HB 1428. *No Child Left Behind; waiver and exemption requests.* The amendments encourage the president of the Board of Education to take action, instead of mandating that the president take action. There is also a technical amendment.

HB 1487. *Board of Medicine; restricted volunteer licenses.* Technical amendments.

HB 1502. *Management agreements for Virginia Polytechnic Institute and State University, The College of William and Mary in Virginia, and the University of Virginia.* The amendment adds language requiring each institution to engage in discussions with diverse employee groups in regard to the institution's human resource system. This language was in the introduced version of the bill.

HB 1506. *Proffered cash payments.* Technical amendments.

HB 1526. *Probation; placement of certain offenders with community-based agency.* Technical amendment.

HB 1533. *Subaqueous lands in City of Norfolk.* The enrolled bill authorizes the Governor to convey certain parcels of land

to certain entities. The amendment states that the Governor may sell and convey the property and the Governor may take into account fair market value considerations.

HB 1534. *Adoption.* The enrolled bill allows a child-placing agency to approve as an adoptive or foster parent an applicant convicted of felony possession or distribution of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction. The amendment removes this privilege for applicants convicted of felony distribution of drugs.

HB 1577. *Concealed handgun permits.* Technical amendment.

HB 1581. *Interstate Route 81 corridor; diversion of truck traffic.* The amendment provides that the act shall not become effective unless funds effectuating its purposes are appropriated in the 2006 appropriations act.

HB 1597. *Blue Star Memorial Highway.* Technical amendments.

SB 22. *Child abuse and neglect.* The enrolled bill narrows the safe haven law by stating that the parent leaving his or her child at a hospital or rescue squad must deliver the child in a manner reasonably calculated to ensure the child's safety. The amendment states that the parent must deliver the child to an adult working or volunteering at the hospital or rescue squad at which he or she is leaving the child. If the

child is not left with an adult working or volunteering at the hospital or rescue squad the parent cannot use the affirmative defense provided by the safe haven law.

SB 76. *Freedom of Information Act (FOIA).* The amendments (i) provide a record exemption under FOIA for certain documents generated by or for a responsible public entity to review proposals submitted under the Public-Private Transportation Act (PPTA) or the Public-Private Education Facilities and Infrastructure Act (PPEA); (ii) allow procurement records under the PPTA to be withheld, even after a comprehensive agreement has been entered into, if the process of bargaining of other interim agreements related to the qualifying transportation facility or all phases or aspects of the comprehensive agreement is not complete; and (iii) provide a closed meeting exemption for discussion by an independent review panel appointed by VDOT to discuss procurement records under the PPTA or PPEA.

SB 89. *Recording devices in motor vehicles; notification required.* The technical amendment conforms SB 89 to an identical provision in SB 90 and HB 816.

SB 90. *Recording devices in motor vehicles; ownership of recorded data; insurance policies; disclosure.* See HB 816.

SB 109. Governor's Development Opportunity Fund. The amendments authorize the Governor and not the Secretary of Commerce and Trade to award a grant or loan from the Governor's Development Opportunity Fund provided certain conditions are met. The amendments also require that the Secretary of Commerce and Trade make written findings that the required conditions have been met before the Governor awards the grant or loan. There are also technical amendments.

SB 134. Towing and recovery operators. Technical amendments.

SB 141. Campaign Finance Disclosure Act of 2006. Technical amendment.

SB 146. Methamphetamine precursor drugs. See HB 1040.

SB 182. Community Integration Advisory Commission. Technical amendments.

SB 183. Machete; penalty. See HB 588.

SB 191. All-terrain vehicles and off-road motorcycles. The enrolled bill requires non-dealer owners of all-terrain vehicles and off-road motorcycles powered by gasoline or diesel engines displacing more than 50 cubic centimeters and purchased as new on or after July 1, 2006, to title their vehicles with DMV and allows local governments in the Northern Virginia Planning District to impose certain limitations on where all-terrain vehicles could be

operated. The amendment limits this latter capability to all-terrain vehicles not being used for agriculture or silviculture production, thus eliminating a conflict with the provisions of HB 111.

SB 193. Rail projects. The enrolled bill allows the Commonwealth Transportation Board (CTB) to allocate up to 10% of funds available for highway construction to undertaking and financing of rail projects that, in its determination, would result in mitigation of highway congestion. The amendments would allow the CTB to allocate this same 10% of funds available for highway construction to the Rail Enhancement Fund instead. Furthermore, the amendments provide that the governing body of any city or town receiving construction funds for urban system highways pursuant to § 33.1-23.2 may expend such funds for the undertaking and financing of rail projects that, in the locality's determination, will result in mitigation of highway congestion, provided such projects include a minimum of 30 % cash or in-kind matching contribution from a private source.

SB 194. Motor vehicle registration and license plates. See HB 250.

SB 200. Recklessly controlling or handling dogs; penalty. See HB 340 and HB 1039.

SB 230. Campaign Finance Disclosure; definitions, independent expenditures. The enrolled bill increases the

amounts of independent expenditures triggering reporting requirements from \$500 to \$1,000 in statewide elections and from \$200 to \$500 in other elections. The amendments return the triggering amounts to existing levels, \$500 for statewide elections and \$200 for other elections.

SB 259. Higher educational institutions; intellectual property. The amendment in the nature of a substitute requires copies of the intellectual property policies that have been adopted by public institutions of higher education and the annual report on the assignment of any intellectual property interests be provided to the Governor in addition to the Joint Commission on Technology. In addition, the substitute provides for the Department of Planning and Budget working in cooperation with the state-supported institutions of higher education and the Joint Commission on Technology and Science to issue guidelines defining (i) the conditions under which projects are to be considered wholly or predominately funded by the general fund and (ii) procedures for an expedited review by the Governor of relevant transfers of intellectual properties by December 1, 2006.

SB 260. Classification and Taxation of Property. See HB 1290.

SB 261. Manufacturing Development Commission. The enrolled bill requires that

the membership of the Commission include the president of the Virginia Manufacturers Association. The amendment clarifies that the president of the Virginia Manufacturers Association will serve a term coincident with his term of office.

SB 262. *Virginia Energy Plan.*

The amendment in the nature of a substitute deletes the statement that it is the policy of the Commonwealth to provide an exemption to the moratorium on development and production of natural gas deposits. In its place, the substitute states that it is the Commonwealth's policy to support federal efforts to determine the extent of natural gas resources 50 miles or more offshore and to support the inclusion of the Atlantic Planning Areas in the federal Mineral Management Service's draft environmental impact statement for natural gas exploration 50 miles or more off the Atlantic shoreline, and specifically adds that this is not a policy statement on the moratorium. Other amendments: (i) require Dominion Virginia Power to apply for annual fuel factor adjustments to its electricity rates commencing July 1, 2007, and allows the SCC to require that 40% of any increase in fuel tariffs for the year 2007-2008 shall be deferred and recovered during the period from July 1, 2008, through December 31, 2010; (ii) create a state personal income tax deduction for 20% of the cost of certain energy

efficient equipment or appliances, up to \$500 per year; (iii) establish a requirement that gasoline sold and delivered for use in Virginia with an octane rating of less than 91 be blended with a minimum of 10% alcohol by volume, effective when annual alcohol fuel production exceeds 300 million gallons; (iv) add a statement that it is the policy of the Commonwealth to support federal efforts to examine the feasibility of offshore wind energy being utilized in an environmentally responsible fashion; (v) replace provisions that required the SCC to designate optimal sites for natural gas and nuclear, wind, and solar power facilities with a requirement for the development of a system for scoring sites based on their suitability for the siting of wind or solar energy facilities and a requirement that the Division of Energy, upon request, analyze the suitability of parcels for the location of such facilities; (vi) delete provisions regarding energy efficient construction of state buildings with a requirement that state agencies ensure that the design and construction of state-owned buildings comply with energy standards established by Department of General Services; (vii) amend elements of Virginia's Energy policy to delete reference to offshore gas resources and drilling and nuclear power, and to add language promoting biodiesel and ethanol; (viii) delete provisions referencing

an Offshore Energy Revenue Fund that would receive royalties and other payments from the development of offshore energy resources; (ix) in lieu of requiring the SCC and Secretary of Natural Resources to develop a one-stop permitting process for low-emission energy facilities, they are required to develop a proposal for a coordinated review of permits for any energy project that requires an environmental permit and a certificate of public convenience and necessity; and (x) sunset provisions establishing the clean coal technology research fund, Coastal Energy Research Consortium, Renewable Electricity Production Grant Program, and Photovoltaic, Solar, and Wind Energy Utilization Grant Program if funding is not appropriated for them by July 1, 2009.

SB 313. *Voter registration; non-citizens.* See HB 170.

SB 363. *Commonwealth Preparedness.* See HB 1004.

SB 364. *Payment of severance benefits.* The amendments clarify that the payment of severance benefits is not prohibited in cases of settlement of employment disputes by the Attorney General that are approved by the Governor.

SB 374. *Clustering of single-family dwellings.* The first two amendments allow property located in an Air Installation Compatible Use Zone to be exempt from a requirement for administrative approval by

a locality of certain types of cluster development. The final amendment would also change the bill so that any local government land use ordinance in effect as of June 1, 2004, as opposed to the January 1, 2004, date which is currently provided in the enrolled bill, that provides for the clustering of single-family dwellings and preservation of open space development by right in at least one residential zoning classification without requiring either a special exception, special use permit, conditional use permit, or other discretionary approval may remain in effect at the option of the locality and will be deemed to be in compliance with the law.

SB 406. *Electric Authorities.* See HB 1187.

SB 410. *No Child Left Behind; elimination plan.* See HB 1427.

SB 412. *Intermodal Office.* The enrolled bill provides specific functions and goals for the Intermodal Office in the Office of the Secretary of Transportation. The amendments add working with and coordinating actions of the agencies of the Transportation Secretariat to assess freight movements and promote intermodal and multimodal solutions to address freight needs, assessing and coordinating transportation safety needs related to passenger and freight movement by all transportation modes, and coordinating the adequate accommodation of pedestrian,

bicycle and other forms of non-motorized transportation in the six-year improvement program and other state and regional transportation plans. The amendments further provide that one of the goals of the Intermodal Office is safety improvement.

SB 425. *Interstate Public-Private Transportation Partnership Compact.* See HB 801.

SB 428. *Congenital Anomalies Reporting and Education system.* The amendment in the nature of a substitute conforms SB 428 to HB 1391, as passed and signed into law, which addresses the same issues, in order to ensure accurate merging of the statutory language.

SB 429. *State Board of Elections; Director of Elections.* The enrolled bill increases the size of the State Board from three to five members and, as of February 1, 2007, replaces the present gubernatorial appointed Secretary with a Director of Elections hired by the State Board with the concurrence of at least four members, subject to confirmation by the General Assembly. The amendments make the Director of Elections a gubernatorial appointee subject to confirmation by the General Assembly and delay commencement of the terms of the two new board members to February 1, 2009. The amendments also provide for a February 1, 2007, effective date for other provisions in the bill.

SB 433. *Mortgage satisfaction.* The enrolled

bill imports into the Virginia Code provisions of the Uniform Residential Mortgage Satisfaction Act relating to definitions, notifications, rescinding erroneously recorded certificates of satisfaction, requirements on secured creditors, and the form and effect of satisfaction. Current Code provisions relating to payoff statements, mortgage satisfaction via settlement agents and court proceedings, and penalties for errors or omissions in satisfaction procedures are retained. The amendment mandates that the Virginia Information Technologies Agency submit to the Compensation Board a project budget for the initial development and ongoing maintenance of information technology policies, standards, and guidelines to implement both this bill and Chapter 749 of the 2005 Acts of Assembly, and obtain approval on that budget, before commencing the agency's work. In turn, the Compensation Board is authorized to pay the Agency such charges as it deems reasonable and proper.

SB 454. *High-occupancy lanes.* Technical amendments.

SB 461. *Public Records Act.* The amendments require records created after July 1, 2006, which may be destroyed or discarded, to be destroyed or discarded in a timely manner after expiration of the applicable retention period. For such records that contain personal information i.e., social security number, driver's

license number, bank account numbers, credit or debit card numbers, personal identification numbers (PIN), electronic identification codes, automated or electronic signatures, or passwords, destruction must occur within six months after expiration of the applicable retention period.

SB 487. *Virginia Liaison Office; association health plans.* The enrolled bill directs the Virginia Liaison Office to work with members of the Virginia Congressional delegation and federal executive branch agencies to develop, support, and enact legislation to provide for the establishment and governance of group health plans sponsored by trade, industry, professional, chamber of commerce, or similar business associations, if such plans remain subject to Virginia law. As enrolled, the Virginia Liaison Office is required to report annually to the Governor and the General Assembly concerning the status of federal legislation and activities relating to association health plans. The amendments would change the bill so that it expresses the Commonwealth's policy "to support federal efforts to encourage pooling of health insurance by small businesses, if such health insurance plans remain subject to state law."

SB 499. *Qualifications for providing home instruction.* See HB 1340.

SB 547. *Limited liability companies and limited partnerships; domestication.* The technical amendments reinsert two omitted words.

SB 552. *Human biological evidence.* At the time the General Assembly passed the bill, the numbers for the corrections impact were not completed. The amendment, which is basically technical, inserts the proper impact. The estimated amount cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

SB 559. *Sex Offenders and Crimes Against Minors Registry Act; sexually violent predators.* In addition to technical and clarifying amendments, the amendments make several key changes to the bill: (i) amendment three would require the Department of State Police, in conjunction with the State Council of Higher Education and the Virginia Community College System, to develop guidelines concerning the transmittal of information to the State Police concerning students admitted to an institution of higher education with an instantaneous admissions policy, in order to ensure compliance with the Federal Education Rights and Privacy Act; (ii) amendments four and five would eliminate the review of certain offenders for possible inclusion in the civil commitment program who scored a four on the Static-99

(or like instrument) if the sexually violent offense mandating the review was conviction of aggravated sexual battery, but the initial charge leading to this conviction was for rape, forcible sodomy, or object penetration; (iii) amendments six and seven would allow, but not require, a court to consider certain factors—such as the nature of the offense, mental history, and results of actuarial tests—when deciding whether to civilly commit or place an offender on conditional release; (iv) amendment fourteen would clarify that pursuant to an agreement between the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, probation and parole officers have the ability to provide supervision services to offenders placed on conditional release under the civil commitment of sexually violent predators program.

SB 564. *Governance by the Board of Game and Inland Fisheries.* The enrolled bill requires the Board of Game and Inland Fisheries to develop a Governance Manual that sets forth rules and procedures for the conduct of the Board's business. The amendment clarifies that the chairman and vice-chairman of the Board are to be elected annually and a Board member cannot serve as chairman and vice-chairman

more than once during a four year term. The language of the amendment would conform this bill to SB 653 as signed into law.

SB 566. Probation officers. The enrolled bill, among other things, expands the crimes for which a presentence report is required. In HB 1038 and SB 559, a presentence report is required for a violation of § 18.2-48 (including clauses i, ii and iii). In the bill, as enrolled, a presentence report is required only for a violation of clauses ii and iii. To give effect to the broader amendment contained in the two other measures, the amendment removes the reference to clauses ii and iii, leaving only the reference to the entire section and making the bills compatible.

SB 614. Virginia-North Carolina Interstate Toll Road Compact. The enrolled bill establishes the Virginia-North Carolina Interstate Toll Road Compact to set, impose, and collect tolls for the use of Interstate Route 95. The amendment in the nature of a substitute would (i) provide for proportional representation in the appointment of members of the House of Delegates, terms of office for legislative members, statutory authority for the compensation and reimbursement of expenses of Virginia's legislative members to the Compact Commission, (ii) employ the Compact format and place the Compact in the appropriate title of the Code, and (iii) provide technical amendments.

SB 617. License plates; special. Technical amendments.

SB 632. Neurological birth-related injury cases; review. The enrolled bill is a section 1 bill that provides for the review of certain birth-related neurological injuries. The enrolled bill provides that, in addition to the birth-related neurological injury occurring in a defined time period, the cases must have been dismissed because they did not meet the definition provided in subdivision A 1 of § 38.2-5008 and that the panel required under subsection B of § 38.2-5008 reported to the Commission in the hearing held pursuant to the dismissed claim that such injuries did not meet the definition of birth-related neurological injury. The amendment removes the second requirement that the panel had to report that such injuries did not meet the definition of birth-related neurological injuries.

SB 651. Air emissions control. See HB 1055.

SB 662. Public Procurement; SWAM businesses. See HB 122.

SB 666. Public-private Transportation Act. The enrolled bill authorizes "concession" agreements under the Public-Private Transportation Act of 1995. The amendment provides that if a local tax prohibited by the bill is nevertheless levied, imposed and collected by a locality, the Commonwealth Transportation

Board will withhold funds appropriated and allocated pursuant to Article 1.1 of Chapter 1 of Title 33.1 to such locality equal to the amount of any such tax imposed, levied and collected.

SB 675. Management agreements for Virginia Polytechnic Institute and State University, The College of William and Mary in Virginia, and the University of Virginia. See HB 1520.

SB 676. School for the Deaf & Blind. See HB 350.

SB 689. Virginia Workforce Council. The enrolled bill reduces the size of the Virginia Workforce Council from 29 to 25 members, increases the representation of the General Assembly, and conforms the Code provisions pertaining to the composition of the Council to federal law and regulations governing the creation of state workforce councils. The amendments would increase the size of the Council from 25 to 27 members by adding two nonlegislative citizen members to be appointed by the Governor for a total of 13 nonlegislative citizen members, and provide that other nonlegislative citizen members would be appointed by the Governor in consultation with the Senate Committee on Rules and the Speaker of the House of Delegates, rather than upon the recommendation of the Senate Committee on Rules and the Speaker of the House of Delegates.

SB 704. *Family day homes; those not covered by liability insurance.* The enrolled bill provides for a penalty of \$500 for each failure of a family day home to provide notice to the parent or guardian of each child under their care of any liability insurance and the amount thereof. The amendment provides for a penalty up to \$500.

SB 720. *Highway user fees.* The enrolled bill allows localities to establish highway user fees for highways that are not part of any system of state highways when such highway's capacity is expanded by construction or reconstruction. The bill also provided that, when the capacity of any system of state highways or a portion thereof is expanded by construction or reconstruction, the Commonwealth Transportation Commissioner may enter into agreements with localities, authorities, and transportation districts to establish highway user fees for highways that the localities, authorities, and transportation districts maintain. The amendments provide for these latter agreements with localities to be entered into by the Commonwealth Transportation Board, rather than the Commonwealth Transportation Commissioner.

Governor's Vetoes

HB 493. *High school baccalaureate ceremonies.* The enrolled bill includes baccalaureate ceremonies among the prayer-oriented school activities for which the Board of Education, in consultation with the Office of the Attorney General, must develop guidelines to promote compliance with constitutional restrictions and the observance of constitutional rights.

The Governor stated that "[b]ecause the Board, with the assistance of the Attorney General's Office, has already developed the guidelines that are requested to be developed in this bill, I veto the bill."

HB 673. *Transportation Board; election of certain members by the General Assembly.* The enrolled bill provides for election of the non-at-large members of the Commonwealth Transportation Board by majority vote of the members elected to each house of the General Assembly.

The Governor stated that it "...only serves to fragment the Commonwealth's transportation planning process" and "...no reason exists for the executive branch to cede this appointment power to the legislative branch at this point."

HB 706. *Tobacco Indemnification and Community Revitalization Commission.* The enrolled bill changes the power to appoint the executive director of the

Tobacco Indemnification and Community Revitalization Commission from the Governor to the Commission.

The Governor stated that "it is imperative that the Governor have the ability to appoint a professional who will work as part of the entire team of state officials who strive to promote business development and entrepreneurship across the Commonwealth," and "no reason exists for the Governor to cede this power."

HB 1106. *Concealed weapons; possession on owner's property and in private vehicles.* The enrolled bill allows persons without concealed weapons permits to store firearms in locked compartments in their vehicles.

The Governor stated that the "measure runs contrary to existing state law regarding concealed weapon permits, allowing persons who have not completed a criminal background check, and who are untrained with a handgun, to possess a firearm in a concealed manner within a locked compartment in their automobiles," as well as "...presents a danger to our law enforcement officers..."

HB 1178. *Committees on Standards of Conduct.* The enrolled bill provides that the membership of the Committee on Standards of Conduct of the House and Senate Rules Committees will be determined by the rules of each house. Current Senate

Rules establish the subcommittee with three members, one of whom shall be a member of the minority party, appointed by the Chair, while the House Rules call for four members, two of whom shall be members of the majority caucus and two of whom shall be nonmembers of the majority caucus, appointed by the chairman.

The Governor stated that the bill would "eliminate the requirement that a member of the minority party be appointed to any Committee on Standards, consisting of three members, established by either the House or Senate."

HB 1545. Tobacco Settlement Foundation; appointment of director. The veto restores the Governor's power to appoint the Director of the Tobacco Settlement Foundation.

SB 304. Transportation Board; election of certain members by the General Assembly. See HB 673.

***Bills Returned by the Governor to
the Regular Reconvened Session (1986-2006)***

YEAR	GOVERNOR	AMENDMENTS	VETOES	TOTAL UNSIGNED*	BILLS APPROVED	PERCENT RETURNED
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
2003		87	4	91	955	9.5
2004		60	2	62	1035	6.0
2005		45	1	46	949	4.8
2006	Kaine	123	7	130	828	15.7

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

Sources: House and Senate Journals. House and Senate Calendars and Acts of Assembly.

Division of Legislative Services 4/17/2006.

D i v i s i o n o f L e g i s l a t i v e S e r v i c e s

S p e c i a l P r o j e c t s

910 Capitol Street, 2nd Floor

Richmond, VA 23219

(804) 786-3591

<http://dls.state.va.us>

E. M. Miller, Jr., Director

R. J. Austin, Manager, Special Projects

Lynda Waddill, Editor

SUMMARY 2006 RECONVENED SESSION: APRIL 19, 2006

VETOES

Bills Vetoed	7
Vetoed Sustained	7
Overridden	0

AMENDMENTS

Bills with Governor's Amendments	123
Bills – All Amendments Accepted	97
Bills – All Amendments Rejected or Ruled Out of Order	22
Bills – All Amendments Rejected and Bill Passed as Originally Enrolled	0
Bills – Amendments Rejected in Part	3
Bills – Reconsidered by Legislature	1

List of Bills With Actions Other Than Agreement to All Amendments by Both Houses

Senate Rejects All Amendments/Bill Returned to Governor [Senate Bills]	SB 76 (Houck) FOIA. SB 260 (Wagner) Property classification and taxation. SB 675 (Houck) Management agreements higher ed.
House Rejects All Amendments/ Bill Returned to Governor [House Bills and Senate Bills]	HB 64 (Purkey) Public Procurement Act, transportation-related projects. HB 170 (Lingamfelter) Non-citizen voter registration. HB 350 (Hamilton) School for Deaf and Blind. HB 370 (Carrico) Firearm regulation by counties. HB 771 (Armstrong) Initiating condemnation.

HB 1185 (Landes)
 Water withdrawal permits.
HB 1290 (Saxman)
 Machinery and tools tax.
HB 1312 (Gilbert)
 Laser speed detection devices.
HB 1340 (Bell)
 Qualifications, providing home instruction.
 [Amendments ruled out of order]
HB 1502 (Callahan)
 Management agreements higher ed.
HB 1581 (Cline)
 I-81 corridor, truck traffic diversion.
SB 22 (Lucas)
 Child abuse and neglect.
SB 193 (Williams)
 Rail projects.
SB 230 (O'Brien)
 Campaign finance disclosure.
SB 313 (Cuccinelli)
 Non-citizen voter registration.
SB 412 (Houck)
 Intermodal office.
SB 429 (Davis)
 SBE, Director of Elections.
SB 676 (Hanger)
 School for Deaf and Blind.
SB 689 (Ruff)
 Virginia Workforce Council.

House and Senate Reject Amendments In Part

HB 1187 (Landes)
 Electric authorities.
 [House rejects #'s 2, 3, 5, 15; House and Senate accept #'s 1, 4, 6-14, 16-26.]
HB 1333 (Bell)
 Sex offender registry.
 [House rejects # 2; House and Senate accept # 1]
SB 406 (Hanger)
 Electric authorities.
 [Same as HB 1187]

Bill Reconsidered by General Assembly

SB 262 (Wagner)
Virginia Energy Plan.
[Senate voted Governor's
recommendation (substitute) not
specific and severable, and passed
floor substitute by Senator Wagner.
House referred the Senate Floor
Substitute to Commerce and Labor
Committee, which reported the bill.
House passed the bill.]

Procedural Item of Interest

HB 1340 (Bell)/**SB 499** (Puckett)
Home Instruction.
[Identical bills, identical Governor's
recommendation for both.]

Speaker ruled Governor's
recommendation to HB 1340 out of
order. Senate accepted the
Governor's recommendation to SB
499; House accepted Governor's
recommendation to SB 499.

DLS/rja -- 4/20/06
F:\SPROJECT\PROJECTS\RESEARCH\2006VETO.DOC