

Governor's Amendments and Vetoes

2014 General Assembly Session

The Governor vetoed five bills and recommended amendments to 57 bills passed by the 2014 Session of the General Assembly. The Division of Legislative Services staff prepared the following summaries to assist General Assembly members during their deliberations at the Reconvened Session on April 23. Not included in the Governor's Amendments section are two bills returned with amendments and acted upon by the members during the 2014 Regular Session.

Governor's Amendments

House Bills

HB 10. Judges; retirement allowance and service after retirement. The enrolled bill provides that the annual retirement allowance of a person who served as a judge but retired under a different defined benefit retirement plan shall be capped at 78 percent of his average final compensation, unless such person after ceasing to be a judge performs at least five years of creditable service under such other defined benefit retirement plan. However, in no case will such person's annual retirement allowance exceed 100 percent of his average final compensation. The Governor's amendments remove a provision of the bill that makes the new caps retroactive and applicable to any person who retired on or after July 1, 2013.

HB 104. Elections; officers of elections; chief and assistant chief election officers. Technical amendment.

HB 132. Commissioned officers; tuition-free instruction. The enrolled bill adds the departments of emergency management, emergency services, public safety, and disaster management to the list of departments at state institutions of higher education in which commissioned officers of the organized militia and the Governor's military staff may receive instruction for a period not exceeding 10 months without being required to pay any fee or charge for tuition. The bill requires the State Council of Higher Education for Virginia (SCHEV), in consultation with the Department of Veterans Services, to establish guidelines for the implementation of such additions. The Governor's amendment requires SCHEV to work in consultation with the Department of Military Affairs, which oversees the organized militia and the Governor's military staff, rather than the Department of Veterans Services.

HB 133. Two-Year College Transfer Grant Program; eligibility criteria. The enrolled bill permits a student to enroll in a four-year institution by the spring following the award of an associate's degree and remain eligible for a grant under the program. Under current law, only those students who enroll by the fall following the award of an associate's degree and whose Expected Family Contribution (a measure of financial need) is no more than \$8,000 are eligible for grants. The Governor's amendment broadens eligibility for grants to students whose Expected Family Contribution is no more than \$12,000.

HB 199. Legislation affecting local government expenditures or reductions. The enrolled bill requires the Division of Legislative Services to identify and forward to the Commission on Local Government (Commission) introduced joint resolutions calling for a study of local government expenditures or revenues and authorizes the Department of Planning and Budget and the

Department of Taxation to forward to the Commission introduced bills that require additional local government expenditures or a reduction in local government revenues. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act.

HB 272. Judicial performance evaluation program. The enrolled bill establishes timelines for the conduct of judicial evaluations and the submission of those evaluations to the Courts of Justice Committees. The bill also exempts the program from the provisions of the Freedom of Information Act. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act.

HB 285. Emergency protective orders; arrests for certain offenses. The enrolled bill includes special conservators of the peace who have met the certification requirements for a law-enforcement officer in the definition of a law-enforcement officer for the purposes of obtaining an emergency protective order and for making arrests for assault and battery against a household member, stalking, and violation of a protective order. The Governor's amendment removes any potential ambiguity between the definition of law-enforcement officer and the special conservators who are allowed to arrest under this section. SB 71, which is identical as enrolled, has the same Governor's amendment.

HB 311. Revision of Title 33.1. The enrolled bill creates proposed Title 33.2 as a revision of existing Title 33.1 as well as portions of Titles 15.2, 56, and 58.1 and organizes the laws in a more logical manner, removes obsolete and duplicative provisions, and improves the structure and clarity of statutes pertaining to highways, bridges, ferries, rail and public transportation, transportation funding, and local and regional transportation. The Governor's amendments make necessary changes to repeal a chapter that is included in the title revision and to ensure that no existing appointments are interfered with. The Governor's amendments also reinsert a definition of the National Highway System and make other technical changes.

HB 334. Local multidisciplinary child sexual abuse response teams. Technical amendment. SB 421, which is identical as enrolled, has the same Governor's amendment.

HB 354. Joint Leadership Council of Veterans Service Organizations; powers and duties. The enrolled bill authorizes the Joint Leadership Council of Veterans Service Organizations to advise the General Assembly on areas related to veterans services and programs. The Governor's amendments remove that authority and provide for the Secretary of Veterans and Defense Affairs to advise the General Assembly on matters that are brought to his attention by the Council and that he recommends may be addressed through legislative action.

HB 373. School speech-language pathologists; licensure. Technical amendment.

HB 375. Patent infringement; assertions made in bad faith. The enrolled bill prohibits any person from making in bad faith an assertion of patent infringement. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act. SB 150, which is identical as enrolled, has the same Governor's amendment.

HB 377. Adjustment or relocation of billboard signs. The enrolled bill includes the erection of a sound barrier as an action that allows relocation of a billboard sign and allows a billboard to remain in its original location until the Commissioner of Highways or other condemnor gives notice to its owner that the sign must be removed. The Governor's amendment clarifies that the determination of whether or not a billboard has been restored to the same or comparable visibility shall be made by the Commissioner of Highways in consultation with the locality.

HB 403. Prior sex offenses admissible in evidence; sex crimes against child. Technical amendment.

HB 492. Notaries; advertising; notice requirement. The enrolled bill prohibits a notary public from offering or providing legal advice to any person in immigration or other legal matters or representing any person in immigration proceedings unless such notary public is an attorney or a federally accredited representative. The bill also provides for civil penalties and revocation of the notary commission for failing to include the required statements and postings. The Governor's substitute removes the proposed requirements that notaries engaged in non-English advertising include in any advertising, as well as post within their place of business, a statement that the notary is not licensed to practice law and has no authority to give advice on immigration or other legal matters. The Governor's substitute makes HB 492 identical to SB 503 as enacted.

HB 606. Number of circuit and district court judges. The enrolled bill codifies the maximum number of judges in each circuit and district throughout the Commonwealth as recommended by the Supreme Court of Virginia on the basis of recommendations of the National Center for State Courts. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act passed by the General Assembly in 2014 that becomes law. SB 443, which is identical as enrolled, has the same Governor's amendment.

HB 638. Virginia Residential Landlord and Tenant Act; tenant's noncompliance; death of tenant. The enrolled bill establishes the range of damages that a landlord may recover in addition to reasonable attorney fees in the event of a breach of the rental agreement by the tenant regardless of whether or not a lawsuit is filed or an order obtained from a court, as well as the damages that may be recoverable when a lawsuit is pending before the court. The Governor's amendments remove the provision establishing the range of damages that are available without first initiating a lawsuit or obtaining an order from a court and remove the provision establishing the separate range of damages that are recoverable when a lawsuit has been filed.

HB 650. Boating safety course. The enrolled bill exempts from the requirements of the boating safety education course persons who hold various landing and aquaculture licenses and permits from the Virginia Marine Resources Commission and persons 45 years of age or older who have possessed a Virginia registration certificate for a motorboat for at least six continuous years. The Governor's amendments remove the exemption for persons 45 years of age or older who have possessed a motorboat registration certificate for at least six continuous years and make technical corrections.

HB 791. Condominium and Property Owners' Association Acts; rule enforcement. The enrolled bill provides that where the governing documents expressly so provide, an association would have the right to file or defend legal action in general district or circuit court which seeks relief, including injunctive relief, arising from any violation of the condominium instruments or duly adopted rules and regulations. The Governor's substitute provides that the right to file or defend a legal action in general district or circuit court to seek an order to require that any violation of the condominium instruments or rules duly adopted pursuant thereto be corrected is not dependent on such right being conferred in the association documents. The substitute maintains the requirement that before any such action, an owner be given a reasonable opportunity to correct the alleged violation and if uncorrected, the owner is given an opportunity to be heard and represented by counsel.

HB 829. Automated sales suppression device; penalties. The enrolled bill makes it a Class 1 misdemeanor to willfully utilize any device or software to falsify the electronic records of cash

registers or manipulate transaction records that affect any state or local tax liability and provides that any violation shall result in a civil penalty of \$20,000. The Governor's amendments change the wording contained in the local taxation civil penalty provision to reflect the appropriate terminology for local tax assessment and collection.

HB 866. Charter; Town of Christiansburg. Technical amendment.

HB 868. Conditional release of geriatric prisoners; persons subject to protective orders ineligible. The enrolled bill provides that a geriatric prisoner is ineligible for conditional release due to age if he was convicted of a felony act of violence and was subject to a protective order at the time of the offense or after the offense but prior to being released from incarceration for the offense and the victim of the felony offense was the protected person under the protective order. The Governor's amendments limit the application of the bill to prisoners who were subject to protective orders issued pursuant to § 16.1-253 (preliminary protective order to protect a child's life, health, safety, or normal development) and who were subject to the protective order at the time of the offense. The Governor's amendments also remove the requirement that the victim of the felony act of violence be the person protected under the order and provide that the provisions of the bill do not apply to any person who is serving a life sentence for any crime other than homicide who was under the age of 18 at the time of the offense. If the Governor's amendments to HB 868 and to SB 561 are adopted, the bills will be identical.

HB 882. Alcoholic beverage control; sale of wine and cider in growlers. The enrolled bill provides that cider may be sold in any size containers allowable for wine that are federally approved and allows licensees to store wine in growlers or other reusable containers that are federally approved. The Governor's substitute removes the language allowing licensees to store wine in growlers or other federally approved containers and provides that cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer and cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine.

HB 1005. Health insurance policies; coverage; conversion policies. The enrolled bill addresses the conversion of coverage under a group policy to an individual policy and provides that certain mandated offers do not apply to health care plans issued in the individual or small group market or to a qualified health plan offered through a health benefit exchange. The Governor's substitute authorizes any health carrier to offer to renew any health benefit plan that would otherwise be required to be canceled, discontinued, or terminated, or would otherwise not be allowed, because it does not meet the requirements of the federal Patient Protection and Affordable Care Act, to the extent and under the terms that federal authorities have suspended enforcement of provisions of the federal Act.

HB 1009. Workforce development. The enrolled bill recasts the Virginia Workforce Council as the Virginia Board of Workforce Development and makes changes to the role of the Board in the administration of workforce development programs. The Governor's amendments remove a provision establishing an Advanced Manufacturing Advisory Council and direct the Joint Legislative Audit and Review Commission to study the need for and potential role of such a council.

HB 1053. Office of the State Inspector General; powers and duties; internal auditors. The enrolled bill includes an exemption from the Freedom of Information Act for investigative notes and correspondence and information furnished in confidence to internal auditors appointed by the board of visitors of a public institution of higher education. The Governor's amendment

removes the reference to the board of visitors and more generally requires the internal auditors to be appointed by the public institution of higher education.

HB 1072. Scanning information from driver's license. Technical amendment. SB 40, which is identical as enrolled, has the same Governor's amendment.

HB 1109. Virginia Commission on Higher Education Board Appointments; membership. The enrolled bill increases the membership of the Virginia Commission on Higher Education Board Appointments from seven to eight by adding one faculty member of a public institution of higher education as a nonvoting member and sets the quorum for the Commission at three voting members. The Governor's amendments change the new Board position to a former faculty member and remove the restriction that the faculty member serve without voting privileges.

HB 1110. Children placed in child-caring institutions or group homes; reimbursement of costs to educate. The enrolled bill requires a school division to be reimbursed by the school division in which a child's custodial parent or guardian or most recent custodial parent or guardian resides for the costs of educating such child, whether disabled or not, who has been placed, not solely for school purposes, in a licensed child-caring institution or group home that is located within the geographical boundaries of the school division to be reimbursed. The Governor's amendments limit the amount of the required reimbursement to costs not covered by funds appropriated for such purpose by the General Assembly or other state funds, including funds provided on the basis of average daily membership.

HB 1191. Secretary of Commerce and Trade; annual reports evaluating the effectiveness of certain economic development incentive programs. The enrolled bill requires the Secretary of Commerce and Trade to submit an annual report to the Chairs of the Senate Finance Committee and the House Appropriations and Finance Committees on the effectiveness of economic development incentive programs administered by the Commonwealth. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act.

HB 1195. Charter; Town of Rural Retreat. The enrolled bill provides a new charter for the Town of Rural Retreat containing powers typically granted to towns. The Governor's substitute clarifies that the mayor shall be elected for a term of four years and that vacancies in the office of mayor or on the council shall be filled for the unexpired term as provided by general law and makes technical changes.

HB 1211. State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council. The Governor's amendments add a ninth enactment clause that provides that the first reporting period for filers required to file a disclosure form consists of January 2014 through October 2014, correcting an inadvertent omission of January 2014 through April 2014 caused by the transition to the semiannual filing of disclosure forms. The Governor's amendments also include numerous technical amendments. SB 649, which is identical as enrolled, has the same Governor's amendments.

HB 1212. Political contributions and gifts; prohibition in connection with the Governor's Development Opportunity Fund. The enrolled bill prohibits the Governor, his campaign committee, and any political action committee established on his behalf from knowingly soliciting or accepting a contribution, gift, or other item with a value greater than \$50 from persons and entities seeking loans or grants from the Governor's Development Opportunity Fund

and restricts such gifts and contributions from persons and entities seeking loans or grants from the Fund. The Governor's amendments add members of the General Assembly, their campaign committees, and any political action committees established on their behalf to such prohibition. The Governor's amendments also provide that the provisions of the bill shall only become effective if reenacted by the 2015 Session of the General Assembly and direct the Executive Branch Ethics Commission to study the provisions of this bill and report its findings and recommendations to the Governor and the General Assembly by October 1, 2014. SB 650, which is identical as enrolled, has the same Governor's amendments.

HB 1268. Public institutions of higher education; violence prevention committee policies and procedures. The enrolled bill requires the violence prevention committee of each public institution of higher education to establish policies and procedures to require all faculty and staff to report threatening or aberrant behavior that may represent a physical threat to the community. The Governor's substitute requires the violence prevention committees to establish policies and procedures *that outline circumstances under which* all faculty and staff are to report threatening or aberrant behavior that may represent a physical threat to the community. If the amendments to HB 1268 and SB 239 are adopted, the bills will be identical.

Senate Bills

SB 14. Certain sex crimes. The enrolled bill amends certain sex crimes to clarify the behaviors that are prohibited. The Governor's substitute increases the additional fee placed upon each felony or misdemeanor conviction assessed as court costs and deposited into the state treasury and credited to the Internet Crimes Against Children Fund, which was not included in the enrolled bill, from \$10 to \$15.

SB 40. Scanning information from driver's license. Technical amendment. The Senate concurred with this Governor's amendment during the Regular Session. HB 1072, which is identical as enrolled, has the same Governor's amendment.

SB 67. Discounted fees and charges for certain customers; City of Richmond. Technical amendment.

SB 71. Emergency protective orders; arrests for certain offenses. The enrolled bill includes special conservators of the peace who have met the certification requirements for a law-enforcement officer in the definition of a law-enforcement officer for the purposes of obtaining an emergency protective order and for making arrests for assault and battery against a household member, stalking, and violation of a protective order. The Governor's amendment removes any potential ambiguity between the definition of law-enforcement officer and the special conservators who are allowed to arrest under this section. HB 285, which is identical as enrolled, has the same Governor's amendment.

SB 110. Unemployment compensation; short-time compensation program. The enrolled bill establishes a short-time compensation program under which employers are provided the option of reducing the hours worked by employees while permitting the employees whose hours are reduced to receive partial compensation for their lost wages. The Governor's amendments add, as a condition of eligibility, that an individual be available for his usual hours of work with the employer, which may include participating in certain training programs. An amendment also deletes the provision requiring the Short-Time Compensation Program to sunset on January 1, 2020, and in lieu thereof adds provisions requiring the Commission on Unemployment Compensation to review the Program annually from 2015 through 2019 and authorizing the Commission to report any recommendations regarding the operation or continuance of the Program after any such review. Other amendments are technical and conform provisions to earlier changes that limit the duration of an employer's plan to the end of the sixth month after its effective date.

SB 145. Special fox hunting license. Technical amendment.

SB 150. Patent infringement; assertions made in bad faith. The enrolled bill prohibits any person from making in bad faith an assertion of patent infringement. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act. HB 375, which is identical as enrolled, has the same Governor's amendment.

SB 239. Student mental health policies; violence prevention committee. The enrolled bill requires the violence prevention committee of each public institution of higher education to establish policies and procedures to encourage all faculty and staff to report behavior that may represent a threat to the community to members of the campus community identified by the committee. The Governor's amendments require the violence prevention committees to establish policies and procedures *that outline circumstances under which* all faculty and staff are to report threatening or aberrant behavior that may represent a physical threat to the community. The

Governor's amendments also clarify that the guidance, policies, and procedures that the violence prevention committee provides relate to *physical* threats. If the amendments to SB 239 and HB 1268 are adopted, the bills will be identical.

SB 282. Virginia Fire Services Board; meetings. The enrolled bill allows the Virginia Fire Services Board to meet two additional times per calendar year for a total of six meetings. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act.

SB 376. Emergency vehicles of the Virginia National Guard. Technical amendment.

SB 377. Firearm transfers to dealers; penalty. The enrolled bill establishes a process to be administered by the Department of State Police so that firearms dealers can find out whether a firearm that is being transferred to the dealer by a person other than a dealer, importer, or manufacturer can be lawfully transferred. The bill has an effective date of January 1, 2015. Under the enrolled bill, if the Department of State Police determines that a firearm submitted for verification is not lost or stolen, the firearms dealer is required to destroy the consent form containing the personal identifying information of the prospective seller within two weeks of such determination. The Governor's amendment requires that such consent form be destroyed no sooner than 90 days after such determination.

SB 421. Local multidisciplinary child sexual abuse response teams. Technical amendment. HB 334, which is identical as enrolled, has the same Governor's amendment.

SB 443. Number of circuit and district court judges. The enrolled bill codifies the maximum number of judges in each circuit and district throughout the Commonwealth as recommended by the Supreme Court of Virginia on the basis of recommendations of the National Center for State Courts. The Governor's amendment provides that the provisions of the bill are contingent on funding in a general appropriation act passed by the General Assembly in 2014 that becomes law. HB 606, which is identical as enrolled, has the same Governor's amendment.

SB 480. Real property tax; notice of assessment. Technical amendments.

SB 551. Scenic river designation. The enrolled bill designates a 10.7-mile segment of the Cranesnest River in Dickenson County as a component of the Virginia Scenic Rivers System. The bill makes applicable to all scenic rivers a provision currently imposed on two scenic rivers that designation as a scenic river shall not be used to determine the unsuitability of lands along the river or its tributaries for surface and mineral mining. The Governor's substitute would remove the general provision and apply it specifically to the Cranesnest scenic river. The two other rivers where the mining provision is current law would not be affected.

SB 561. Conditional release of geriatric prisoners; persons subject to protective orders ineligible. The enrolled bill provides that a geriatric prisoner is ineligible for conditional release due to age if he was convicted of a felony act of violence and was subject to a protective order at the time of the offense and the victim of the felony offense was the protected person under the protective order. The Governor's amendments limit the application of the bill to prisoners who were subject to protective orders issued pursuant to § 16.1-253 (preliminary protective order to protect a child's life, health, safety, or normal development). The Governor's amendments also remove the requirement that the victim of the felony act of violence be the person protected under the order and provide that the provisions of the bill do not apply to any person who is serving a life sentence for any crime other than homicide who was under the age of 18 at the

time of the offense. If the Governor's amendments to SB 561 and HB 868 are adopted, the bills will be identical.

SB 565. Commercial driver's licenses, etc.; compliance with federal requirements. The enrolled bill provides that an applicant for a commercial driver's license who has military commercial motor vehicle experience may obtain a skills test waiver if he is regularly employed or was regularly employed within the last 90 days in a military position requiring operation of a commercial motor vehicle. The Governor's amendment would extend this 90-day period to any other period authorized by the Federal Motor Carrier Safety Administration. SB 565 is identical to HB 662 as enrolled.

SB 649. State and Local Government Conflict of Interests Act and General Assembly Conflicts of Interests Act; Virginia Conflict of Interest and Ethics Advisory Council. The Governor's amendments add a ninth enactment clause that provides that the first reporting period for filers required to file a disclosure form consists of January 2014 through October 2014, correcting an inadvertent omission of January 2014 through April 2014 caused by the transition to the semiannual filing of disclosure forms. The Governor's amendments also include numerous technical amendments. HB 1211, which is identical as enrolled, has the same Governor's amendments.

SB 650. Political contributions and gifts; prohibition in connection with the Governor's Development Opportunity Fund. The enrolled bill prohibits the Governor, his campaign committee, and any political action committee established on his behalf from knowingly soliciting or accepting a contribution, gift, or other item with a value greater than \$50 from persons and entities seeking loans or grants from the Governor's Development Opportunity Fund and restricts such gifts and contributions from persons and entities seeking loans or grants from the Fund. The Governor's amendments add members of the General Assembly, their campaign committees, and any political action committees established on their behalf to such prohibition. The Governor's amendments also provide that the provisions of the bill shall only become effective if reenacted by the 2015 Session of the General Assembly and direct the Executive Branch Ethics Commission to study the provisions of this bill and report its findings and recommendations to the Governor and the General Assembly by October 1, 2014. HB 1212, which is identical as enrolled, has the same Governor's amendments.

SB 651. Office of the Attorney General; employment of outside counsel where a conflict of interests exists. The enrolled bill provides that if the Attorney General certifies to the Governor that it would be improper for his office to render legal services because a conflict of interests exists, the Attorney General shall negotiate an agreement with outside counsel to provide such legal services, and the compensation for the legal services provided shall be based upon a reasonable fee and shall be expended from funds appropriated to the Attorney General's Office. The Governor's amendments limit the provisions of the enrolled bill to situations where the Attorney General cannot provide legal services to the Governor due to a conflict of interests. The Governor's amendments also require the agreement with outside counsel to be negotiated by the Governor and compensation for such counsel to be expended from funds appropriated to the Governor's Office.

SB 657. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals; onsite sewage installers and operators. The enrolled bill directs the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals to extend one time and deem to be valid interim licenses as an alternative onsite

sewage system installer held by an individual at such time as the individual applies to take the examination required for issuance of an alternative onsite sewage system installer license. A license extended in accordance with the bill shall be valid until such time as the individual receives a passing score on the examination required for issuance of a license as an alternative onsite sewage system installer or for a period of six months, whichever occurs sooner. The Governor's amendments require the individual seeking an extension to be eligible to take the examination at the time he applies to take the examination for an interim license to be extended and provide that a license that is extended in accordance with the bill shall be valid until such time as the individual receives a passing score on the examination required for issuance of a license or until December 31, 2014, whichever occurs sooner.

Governor's Vetoes

HB 962. Carrying concealed handgun; secured container or compartment in vehicle. The enrolled bill provides that, for the purposes of lawfully carrying a concealed handgun in a motor vehicle or vessel, a secured container or compartment includes a glove compartment or any other area in or on the vehicle or vessel that can be closed. The Governor's veto explanation states:

"As passed by both houses, the bill provides that for the purposes of the exception, a concealed weapon may be 'secured' in a container or compartment that is merely 'closed but not necessarily locked.'

"On March 3, 2014, I recommended three line amendments to this bill for the purpose of better ensuring the safety of Virginia's law enforcement personnel and its citizens.

"My recommended amendments would have limited the exception to the prohibition against carrying a concealed weapon while in a personal motor vehicle or vessel to only those instances when the weapon is in a locked container or compartment. On March 7, 2014, the House of Delegates rejected my recommended amendments and returned House Bill 962 to me.

"I believe the bill as originally passed does not offer adequate protection to our citizens and law enforcement personnel."

HB 1040. Use of photo-monitoring systems to enforce traffic light signals; appeals. The enrolled bill provides that operators found in violation of ordinances created to enforce photo-monitoring systems for traffic lights have a right to appeal to the circuit court in a civil proceeding. The bill also reduces from \$50 to \$20 the amount of the matter in controversy above which an appeal of right exists in a civil case. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1040, a bill that creates a new right of appeal to the Circuit Court of a finding of a violation related to the photo-monitoring of a traffic light signal. A citation levies no more than a \$50 civil fine. There is no effect on a criminal or driving record.

"This automatic right of appeal to the Circuit Court could inundate our currently underfunded judicial system with cases of limited financial impact, potentially jeopardizing the efficient and expeditious handling of more significant civil and criminal cases.

"Our general district courts are more than capable of addressing these infractions and providing those affected with all attendant rights. Allowing minor citations to be appealed to the Circuit Court would add an unnecessary strain to our vital public safety resources."

SB 236. Student religious viewpoint expression. The enrolled bill codifies the right of students to (i) voluntarily pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression; (ii) organize prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other activities and groups; and (iii) wear clothing, accessories, or jewelry that displays religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories, and jewelry are permitted. The enrolled bill also requires each school division to adopt a policy, with certain conditions, to permit a student speaker to express a religious viewpoint at any school event at which a student is permitted to publicly speak. The Governor's veto explanation states:

“Although proponents claim that SB 236 is needed to protect the religious freedom of Virginia’s public school students, the bill actually infringes on students’ right to be free from coercive prayer and religious messaging at both voluntary and required school events. It is firmly settled in law that the Establishment Clause of the United States Constitution forbids school-sponsored prayer and religious indoctrination, as well as any school initiative designed to endorse prayer or sponsor a particular religious viewpoint. Further, the federal Equal Access Act already requires high schools to allow students’ religious clubs the same privileges afforded to secular clubs.

“Importantly, the *Guidelines Concerning Religious Activity in the Public Schools*, developed by the State Board of Education and the Office of the Attorney General, have, since 1995, clearly informed Virginia school divisions of the extensive breadth of students’ freedom of religious expression, including choice of religious literature, discussion of religious themes with other willing students, voluntary student prayer, and other non-disruptive expressions of belief, both verbal and as expressed through attire or other personal effects.

“I believe SB 236 is not necessary to ensure students’ freedom of religious expression. The freedom of religious expression is already protected from intrusion by Virginia school divisions. SB 236 would likely subject school divisions to extensive and costly litigation. This would seriously impinge on the ability of our schools to fulfill their most important mission—providing our students with the quality education they require to succeed in the future.”

SB 310. Senate districts; adjustments. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 310, which proposes to make substantive changes to certain census blocks in Senate Districts 13, 15, 16, 17, 18, 19, 20, 22, 23, and 33.

“Proponents of the bill rightly point out that the proposed changes target the issue of ‘split precincts.’ This is a situation in which precinct boundaries do not line up exactly with legislative districts. A ‘split precinct’ complicates the task of Board of Elections volunteers and staff, who have to determine which ballots voters need on a more granular level than if the precinct were wholly contained within one legislative district.

“However, the merits of the bill are outweighed by significant legal and policy concerns.

“Legally, there is some question of the bill’s constitutionality. According to Article II Section 6 of the Virginia Constitution, ‘The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2011 and every ten years thereafter.’ Proponents of the bill would argue that this language directs the General Assembly to redistrict every ten years, but contains no limitations on the power of the legislature to redistrict in other years. However, in the case of *Little et al v. Virginia State Board of Elections*, the Richmond Circuit Court interpreted this language to ‘limit the General Assembly’s authority to reapportion Virginia’s electoral districts after the year 2011’ (page 15). This finding by the Court raises serious concerns about the bill’s constitutionality and increases the risks of costly and time-consuming litigation.

“Furthermore, this bill sets a terrible precedent. Allowing the legislature to make substantive changes to electoral districts more frequently than once a decade injects further partisanship into a process that I regard as already too partisan. Annual legislative arguments over redistricting and gerrymandering distract the Commonwealth from the serious challenges we face, as well as undermine the trust of our citizens in their government.”

SB 555. Chaplains of the Virginia National Guard and Virginia Defense Force; sermons.

The enrolled bill prohibits censorship by the Commonwealth and its officials of the religious content of sermons made by Virginia National Guard chaplains, while under control of the Commonwealth, and by Virginia Defense Force chaplains, so long as such content does not urge disobedience of lawful orders. The Governor's veto explanation states:

"I am of the view that this bill would seriously undermine the religious freedom of National Guard members by potentially exposing them to sectarian proselytizing.

"Chaplains serve a very important role in the spiritual well-being of Virginia's Soldiers and Airmen in the Guard, as well as their families. The roles and responsibilities of chaplains are clearly set forth by Army Regulation 165-1, and the distinctive faith requirements of each Chaplain. It is one of the roles of the Chaplain to 'minister to the personnel of their unit and/or facilitate the free-exercise rights of all personnel, regardless of the religious affiliation of either the Chaplain or the unit member.' (AR 165-1, para. 3-2(b)(2)) When practicable, Chaplains are currently required by law to 'hold religious services for members of the command to which they are assigned.' (AR 165-1, para. 3-2(b)(1))

"Our National Guard Chaplains currently conduct voluntary worship services and provide counseling for members of their own faith and may do so in whatever manner they see fit. Furthermore, their right to religious expression in a private and unofficial capacity is without limit.

"Military Chaplains do not, however, have the right to use official, mandatory events as a platform to disseminate their own religious views. To the contrary, Guard members required to attend such events have a right not to be subjected to sectarian proselytizing. A member of the Guard should be free to worship, or not, as he or she chooses without fear of any discipline or stigma. SB 555 would actually allow for the censorship of Chaplains' sermons by allowing for official review to ensure that the sermons do not encourage disobedience. Such a review would violate the tenets of religious freedom available to Chaplains and all members of the Guard.

"The institution of National Guard Chaplains exists to support and promote the free exercise rights of all of our National Guard members. SB 555 does the opposite."

Bills Returned by the Governor (1994-2014)

Session	Governor	Amendments	Vetoed	Total Sent to Governor
1994	Allen	160	20	995
1995		153	11	867
1996		151	9	1,066
1997		155	11	933
1998	Gilmore	147	24	939
1999		118	13	1,062
2000		60	16	1,089
2001		91	7	882
2002	Warner	74	1	899
2003		87	4	1,046
2004		60	2	1,035
2005		45	1	949
2006	Kaine	123	7	958
2007		106	10	958
2008		36	1	889
2009		101	12	886
2010	McDonnell	102	0	871
2011		132	5	892
2012		113	7	855
2013		85	6	812
2014	McAuliffe	57*	5	834

*Two bills returned with Governor's amendments and acted upon during the 2014 Regular Session are not included in the Governor's Amendments section of this publication.