

Legislative Review: Science and Technology Related Legislation Passed by the 2006 General Assembly

Intellectual Property (JCOTS Bill)

HB 134 (and its identical companion, SB 259) passed the General Assembly and were approved by the Governor with only minor modification. HB 134 grants the Board of Visitors for each public institution of higher education the authority to develop their own intellectual property policies, including the transfer and licensing of intellectual property. The Governor's recommendation restored the requirement that the transfer of intellectual property developed wholly or predominately through the use of state general funds must have Governor's prior written approval.

Tax changes for semiconductor users and manufacturers

HB 530 and SB 475 created a new tax exemption from local sales and use taxes for tangible personal property used in semiconductor manufacturing. The bill defines "semiconductor cleanrooms" and "semiconductor equipment" that qualifies for the exemption. Additionally, SB 601 created a local sales taxes exemption for silicon wafers that are used or consumed by a semiconductor manufacturer.

Electronic Records and the Public Records Act

At the recommendation of the HJ6 joint subcommittee studying public records the General Assembly enacted HB 209 and HB 210 updating the Public Records Act and State Publications Depository Program.

In the Public Records Act HB 209 created new definitions for electronic records, lifecycle, metadata, conversion, and migration, and amended the powers and duties of the Library Board to be medium-neutral and to allow the Library to issue regulations and guidelines related to the lifecycle of records, generally. The bill requires the custodians of records to convert and migrate electronic data as necessary to maintain access to these records. Finally, the bill allows the Library to conduct audits of the record keeping practices of agencies subject to the act, and to file the audit reports with the Governor and the General Assembly.

In the State Publications Depository Program HB 210 added electronic records and clarified that the requirements of the Program apply to all state agencies in any branch of government. The bill allows The Library of Virginia to authorize agencies to send certain publication information to the Library, instead of the publications themselves, to facilitate the collection and dissemination of state publications in electronic form. The bill creates a new reporting requirement for The Library of Virginia to annually report to the Governor and the chairmen of the House and Senate Committees on General Laws, the House Appropriations Committee, and the Senate Finance Committee which agencies do not send The Library of Virginia the publications required under the Depository Program. The bill creates a new chapter for the Depository Program, and includes a policy

statement. The bill also repeals a current provision requiring The Library of Virginia to annually compile a listing of publications printed by each state agency during the previous fiscal year, which it must currently do in addition to the statutory requirement that it annually compile a catalog of all publications currently available at each agency.

Court Records

HB 563 removes the sunset provision prohibiting certain information from being posted on a court-controlled website. The Compensation Board policies developed pursuant to this new section will require court clerks to certify that proposed technology improvements of their land records will provide remote access to land records on or before July 1, 2007. If a court clerk provides remote access to land records on or before July 1, 2007, the clerk may then apply to the Compensation Board for an allocation from the Technology Trust Fund. The bill also requests the Virginia Information Technologies Agency to develop methods for the redaction of social security numbers from electronic land record documents and to submit a project budget to Compensation Board for approval.

Uniform Real Property Electronic Recording Act

SB 448 reenacted the Uniform Real Property Electronic Recording Act which was passed in 2005 with the requirement that it be reenacted by the 2006 Session. The Act authorizes circuit court clerks to record land transaction records electronically, and to convert paper records into electronic records. The Act also states that in any circumstance where the law requires that a land records document be an original that an electronic land records document satisfying this Act satisfies the law.

Internet References in the State Code

Bringing the state code up to date, SB 21 made technical changes throughout several sections that change references to the 'global information system known as the Internet' to simply the 'Internet'.

Telecommuting

HB 1161 added telecommunications connectivity (i.e., broadband Internet access, additional telephone lines, and online collaborative tools) to the list of specific budget items that the heads of state agencies must include in their report to the Secretary of Administration on telecommuting and participation in alternative work schedules by state employees.

Alternative Fuels

HB 680 established the Biofuels Production Fund (the Fund) and the Biofuels Production Grant Incentive Program (the Program) to administer the Fund. The Program offers grants to producers of biofuels in Virginia. Producers are eligible for a \$0.10 per gallon

grant if they produce in excess of 10 million gallons of biofuels or increase existing production by 10 million gallons in a given calendar year. The program expires in 2016.

Education

HB 305 created the Office of Learning Technology within the State Council of Higher Education to facilitate and coordinate the voluntary participation of public and private institutions of higher education in the Commonwealth in technology-enriched initiatives. The Office is charged with establishing and administering agreements with nonprofit public and private institutions of higher education in the Commonwealth and other entities for the identification of unmet needs for technology-enriched educational programs and opportunities, and the development and delivery of technology-enriched initiatives, including distance and distributed learning initiatives, for currently served populations and underserved constituencies. This bill is contingent in funding in the appropriations act.

HB 1244 created the Virginia Mathematics, Science, and Technology Education Grant Program for the purpose of providing higher education grants to domiciles of Virginia who are enrolled in a qualified undergraduate or graduate degree program identified by the State Council of Higher Education for Virginia (SCHEV). To receive a grant under this program, a person must (i) be a Virginia domicile; (ii) be enrolled in a qualified program approved by SCHEV; (iii) maintain a cumulative grade point average of at least 2.5; and (iv) sign a promissory note agreeing to begin employment in the Commonwealth in the area of mathematics, science, engineering, or technology within six months of receiving an undergraduate or graduate degree and to continue such employment in the Commonwealth for at least four years. The bill is contingent on funding in the appropriation act and incorporated HB 1393.

Broadband Development

HB 400 adds a provision in the Governor's Development Opportunity Fund to allow grants or loans for the purpose of installing, extending, or increasing the capacity of high-speed or broadband internet access. The bill also amends § 2.2-2238.1 to require the Virginia Economic Development Partnership Authority to review and evaluate, in its program developed under the section, existing industrial sites and infrastructure that will provide broadband or high-speed internet access to rural and underserved areas of the Commonwealth.

Voice Over Internet Protocol (VoIP)

HB 1198 eliminates the jurisdiction of the State Corporation Commission to regulate voice-over-Internet protocol service. Providers of voice-over-Internet protocol service or wireless telecommunications service that do not include enhanced 911 (E-911) service are required to provide to their affected subscribers any notice of the absence of E-911 service that is required by the Federal Communications Commission (FCC). Consumers of voice-over-Internet protocol service will be subject to the special local tax for E-911

service. If the FCC requires providers to prepare and file a plan setting forth how providers of voice-over-Internet protocol service propose to develop and implement the capability for voice-over-Internet protocol service users to have E-911 service, the providers shall submit a copy of the plan to the State Corporation Commission and Wireless E-911 Services Board.

Recording Devices in Motor Vehicles

HB 816 and its Senate companion, SB 90, define the motor vehicle owner as the owner of any data recorded on a recording device installed in a motor vehicle. Recorded data may only be accessed with the vehicle owner's consent, except under the following circumstances: (i) the vehicle owner contracts with a third party subscription service that requires access to the recorded data; (ii) a licensed new motor vehicle dealer or a technician or mechanic at a motor vehicle repair or servicing facility requires access to carry out normal and ordinary diagnostics, servicing, or repair duties; (iii) the recorded data is accessed by an emergency response provider in performing his duties; (iv) upon authority of a court of competent jurisdiction; or (v) the recorded data is accessed by law enforcement in the course of an investigation where there is probable cause to believe the recording device contains evidence relating to a violation of the laws of the Commonwealth or the United States and such access is otherwise constitutionally permissible. The bill prohibits insurance companies from refusing to renew a motor vehicle insurance policy solely because the motor vehicle owner refuses to provide access to recorded data from a recording device. The bill also prohibits insurance companies from certain other actions affecting rates and coverage if a motor vehicle owner refuses to allow the insurer access to recorded data. All automobile manufacturers must disclose the presence of factory-installed recording devices in the owner's manual for all model year 2008 and later automobiles sold or leased in the Commonwealth.

Photo Red

Although HB 1000 deals generally with toll collection and toll violators the bill also regulates the use of photo-enforcement systems in identifying toll violators and how information collected may be used. Information collected by a photo-enforcement system must be limited exclusively to that information that is necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other data collected by a photo-enforcement system shall be used exclusively for the collection of unpaid tolls and shall not (i) be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of § 33.1-56.3 or upon order from a court of competent jurisdiction. Information collected under this section shall be purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties.