

DIGEST OF THE ACTS
OF THE
GENERAL ASSEMBLY OF VIRGINIA
AT THE
2003 SESSION

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PREFACE

This Digest of the Acts has been prepared to give an overview of the legislation adopted during the 2003 Regular and Reconvened Sessions of the General Assembly of Virginia, prior to publication of the 2003 Acts of Assembly. These brief notes are not detailed synopses of the acts, but are intended to point out the major features of new measures or the principal changes in existing law. Anyone desiring more detailed information about an act should obtain its full text.

The arrangement of the Digest parallels the title and section number organization of the Code of Virginia. Under each title heading is listed every section within that title that has been amended, added, or repealed, and a brief description of the effect of the General Assembly action. Some titles have a "Miscellaneous" section containing acts that usually do not have Code section numbers but are related to the subject matter of that title. If an act affects several sections of a title, the note appears under the first section only, but the note heading lists the other affected sections. For acts affecting sections in different titles, there are appropriate cross-references. There are no cross-references to sections within the same title, so the user must scrutinize the note headings within each title. Uncodified appropriation, bond, claims, and constitutional amendment measures are included at the end of the Digest.

Please note that the section numbers appearing in this Digest are those assigned to bills at the time of drafting. Due to conflicts with other numbers already assigned, or in order to effect a more logical placement, the Virginia Code Commission in its codification of the acts may change the numbers contained in an act as shown in this Digest. The final section number assignments can be determined after the Code supplements are published by consulting the "Table of Acts Codified Subsequent to 1948" in Volume 10 of the Code.

The acts of the 2003 General Assembly will become effective on July 1, 2003, unless otherwise designated in the act itself. If an act becomes effective on a different date, the note will so indicate. If sections in an act become effective on different dates, the last line of the note will refer readers to the act itself.

Following the notes is a chart showing all other bills passed during the 2003 Regular and Reconvened Sessions of the General Assembly that have become law by virtue of being signed by the Governor, the chapter numbers assigned to those bills, and the pages where their summaries appear in the Digest. Bills passed by the General Assembly but vetoed by the Governor are omitted.

The Digest has been prepared from summaries written by the staff of the Division of Legislative Services.

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TITLE 2.2. ADMINISTRATION OF GOVERNMENT.

§§ 2.2-106, 2.2-225, 2.2-1110, 2.2-1119, 2.2-2261, 2.2-2423, 2.2-2431, 2.2-2651, 2.2-3704, 2.2-3708, 2.2-4304, 17.1-279, 42.1-80, 53.1-52, 56-484.12, 56-484.13, and 56-484.15 amended; §§ 2.2-2000 through 2.2-2027, 2.2-2452, and 2.2-2453 added; §§ 2.2-226, 2.2-226.1, 2.2-227 2.2-1300 through 2.2-1304, 2.2-1700 through 2.2-1710, and 2.2-2247 through 2.2-2259 repealed. **Information Technology Investment Board; Virginia Information Technologies Agency; Chief Information Officer.** Establishes the Information Technology Investment Board to oversee the Virginia Information Technologies Agency (VITA) in the planning, budgeting, acquiring, managing, and disposing of major information technology projects in the State. Under the bill the Board will hire a Chief Information Officer (CIO) of the State to serve as its chief administrative officer to oversee the day-to-day operations of VITA. The bill (i) abolishes the Department of Information Technology, the Department of Technology Planning, the Virginia Information Providers Network Authority, and the Chief Information Officer Advisory Board; (ii) establishes the Division of Project Management within VITA to assist the CIO in the development and implementation of a project management methodology to be used in the planning and development of information technology projects; (iii) establishes a project planning, development and approval process for major information technology projects; (iv) authorizes the Virginia Public Building Authority to issue debt to finance major information technology projects; and (iv) provides for the consolidation of the procurement and operational functions of information technology for state agencies. The bill also provides an implementation schedule for the consolidation of operational functions, including but not limited to, servers and networks, for state agencies into VITA. In addition, the bill directs the Chief Information Officer to review all information technology projects regardless of whether the project is purchased by contract, agreement, or some other financing agreement or such other agreement that requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues to pay for the project. HB 1926; CH. 981/SB 1247; CH 1021.

§ 2.2-107. See § 23-9.3; HB 2678.

§ 2.2-113 amended. **State mandates on local governments.** Provides that notwithstanding any application by a locality and without a determination of fiscal stress, during the fiscal year beginning July 1, 2003, and ending January 1, 2004, the Governor may suspend for good cause as determined by him any local mandate that results from a regulation promulgated by an executive branch agency. In determining good cause, the Governor may consider relieving local fiscal stress, reducing unnecessary burdens to local governments, eliminating dupli-

cative or unneeded reporting requirements, and other factors as may seem appropriate. SB 1212; CH. 169.

§ 2.2-126 amended. **Governor; disposition of official correspondence and other records.** Attempts to tighten the provision that requires the Governor to deliver to The Library of Virginia all correspondence and other records of his office during his term. As to correspondence or other records of a strictly personal or private nature, the Governor must consult with the Librarian of Virginia before deciding which records are not required to go to The Library of Virginia. HB 1686; CH. 590.

§§ 2.2-203, 2.2-2101, 23-7.4:1, 58.1-609.1, and 58.1-3506 amended; §§ 2.2-2000 through 2.2-2004, 2.2-2452, 2.2-2453, 2.2-2454, 2.2-2681, 2.2-2682, and 2.2-2715 through 2.2-2719 added; §§ 2.2-1900 through 2.2-1905, 2.2-2421, 2.2-2422, and 2.2-2435 through 2.2-2439 repealed. **Department of Veterans Services.** Consolidates veterans benefit claims support and veterans care center and cemetery services into the newly created Department of Veterans Services, headed by the Commissioner of Veterans Services. The bill also establishes the Veterans Service Board to advise and make recommendations to the Commissioner regarding future projects for the benefit of the State's veterans and to establish policies coordinating the delivery of veterans services. In addition, the bill establishes the Veterans Services Foundation to administer the Veterans Services Fund and the Joint Leadership Council of Veterans Service Organizations. The bill abolishes the Department of Veterans' Affairs, the Virginia Veterans Care Center Board of Trustees, the Board on Veterans' Affairs and the Virginia Veterans Cemetery Board. HB 1774; CH. 657/SB 1092; CH. 670.

§ 2.2-203. See § 15.2-2901; HB 1967.

§§ 2.2-203, 2.2-904, 2.2-905, 2.2-2452, 2.2-2453, and 2.2-3705. See § 18.2-340.15; SB 1278.

§ 2.2-208 amended; §§ 2.2-2652, 2.2-2653, and 2.2-2654 repealed. **Virginia Advisory Council for Adult Education and Literacy.** Abolishes the Virginia Advisory Council for Adult Education and Literacy. The Council recommends an integrated and coordinated multiagency approach for the delivery of quality adult education and literacy programs, services, and philosophies. The executive director position to the Council has been eliminated as a state position and the Council has met infrequently in recent years. The Board of Education has established the Subcommittee on Adult Education and Literacy which can fulfill the mission of the Council and have a greater local impact. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 804; CH. 452.

§ 2.2-213.1 added. **Secretary of Health and Human Resources; adoption awareness campaign.** Requires the Secretary of Health and Human Resources to conduct an adoption awareness campaign to expand the public's awareness of

the benefits of adoption and to promote adoption as a positive alternative to abortion. The campaign shall include the dissemination to the public of information about the number of children in the Commonwealth who need permanent families and the experiences of adoptive families. The provisions of the bill are contingent upon an appropriation being included in the 2003 Appropriation Act to effectuate the purposes of the bill. HB 1844; CH. 491.

§ 2.2-214.1. See § 32.1-23.1; HB 2225/SB 1341.

§§ 2.2-226 and 2.2-1508 amended. **Review and approval of certain information technology projects.** Directs the Secretary of Technology to review all information technology projects regardless of whether the project is purchased by contract, agreement or some other financing agreement or such other arrangement that requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues to pay for the project. Requires approval by the Secretary of Technology for procurements in excess of \$1 million. Finally, requires the information provided by the Governor with the Budget Bill to include a schedule and description of all capital outlay, data processing, or other projects in which the Commonwealth has entered into or plans to enter into a contract, agreement or other financing agreement. HB 1575; CH. 888.

§ 2.2-406.1 added. **Administration; records on gubernatorial appointees.** Requires the Secretary of the Commonwealth to maintain and transfer to the Governor-elect certain records on collegial bodies and their members. The Secretary is required to keep records regarding contact information on the chairman, vice chairman and other current appointees and the staff to the collegial body. The database shall also list statutory provisions on terms and eligibility criteria. HB 1784; CH. 556/SB 751; CH. 532.

§ 2.2-511. See § 19.2-11.01; SB 1003.

§§ 2.2-718, 2.2-719, and 2.2-720 added; §§ 2.2-710 and 37.1-62.1 repealed. **Alzheimer's and Related Diseases.** Moves the staff responsibility for the Alzheimer's Disease and Related Disorders Commission (Commission) from the Department of Mental Health, Mental Retardation and Substance Abuse Services to the Department for the Aging (the "Department"). The Commission is reconstituted with an additional member bringing the number to 15 and providing for both gubernatorial and legislative appointees. Its expanded duties include developing a plan for meeting the needs of patients with Alzheimer's disease and related disorders and their caregivers, submitting an annual report to the Governor and General Assembly and making application for and expending grants, gifts or bequests. The bill charges the Department with providing referrals that link families caring for persons with Alzheimer's disease and related disorders with Virginia's chapters of the Alzheimer's Disease and Related Disorders Association. The Department also must provide information, counseling and referral about services and programs that may

support individuals and families dealing with Alzheimer's disease and related disorders. Finally, the bill moves the existing Alzheimer's and Related Diseases Research Award Fund to this newly created article. HB 2519; CH. 766/SB 969; CH. 749

§ 2.2-803.1 added. **Processing of payroll and other transactions of institutions of higher education.** Delegates to certain publicly supported institutions of higher education the authority to process payroll and nonpayroll disbursements, receipts, and expenditures. This authority is currently delegated from the Department of Accounts to certain institutions of higher education pursuant to the Appropriation Act, beginning in 1994. The bill codifies a pilot program that was first created in the 1994 budget bill. SB 963; CH. 457.

§ 2.2-813.1 added. **Virginia Truth in Revenue Service Report Act.** Requires the Comptroller to post on the website for the Department of Accounts the following: (i) no later than October 1 of each year, the total amount of each revenue service collected by the Commonwealth for the most recent six-month period ending June 30, and (ii) no later than April 1 of each year, the total amount of each revenue service collected by the Commonwealth for the most recent six-month period ending December 30. The Comptroller shall include in the information posted any Auditor of Public Accounts control findings that the amount of any such revenue service that was used for any purpose other than the purpose originally established in law for such revenue source. HB 1393; CH. 174.

§ 2.2-904 added. **Department of Business Assistance; Workforce Retraining Program and Fund.** Provides for the Department of Business Assistance to develop a Workforce Retraining Program to provide consulting services and funding to companies and businesses to assist in retraining their existing workforces. To be eligible for funding under the program, a company must meet certain requirements and demonstrate that it is undergoing (i) integration of new technology into its production process, (ii) a change of product line in keeping with marketplace demands, or (iii) substantial change to its service delivery process, which would require assimilation of new skills and technological capabilities by the firm's existing labor force. The bill also creates the Workforce Retraining Fund. SB 695; CH. 338.

§ 2.2-1105 amended. **Division of Consolidated Laboratory Services; environmental laboratory certification program.** Authorizes the Director of the Division of Consolidated Laboratory Services to provide variances to environmental labs if (i) the proposed variance will meet the goals and purposes of the provisions of this section or regulation promulgated under this section, and (ii) the variance does not conflict with federal or state law or regulations. The provisions of this bill will become effective on July 1, 2004. SB 1275; CH. 580.

§ 2.2-1111 amended. **Procurement by the Department of Transportation; lighting systems.** Provides that for projects initiated on or after July 1, 2003, the Virginia Department of Transportation shall design all lighting systems in accordance with current Illuminating Engineering Society of North America standards and recommended practices. The lighting system

shall utilize fixtures that minimize glare, light trespass, and skyglow while still providing a comfortable, visually effective, safe, and secure outdoor environment in a cost-effective manner over the life cycle of the lighting system. SB 1351; CH. 294.

§§ 2.2-1119, 2.2-1303, 2.2-4304, and 53.1-52 amended. Procurement of information technology; reverse auctioning. Amends provisions related to information technology procurement. The bill removes the requirement that the Department of Information Technology (DIT) follow the Administrative Process Act (APA) when promulgating and adopting regulations governing the procurement of telecommunications and information technology and restores the exemption from the APA for "the award or denial of state contracts, as well as decisions regarding compliance therewith" (See § 2.2-4002(B)(2)). The bill amends § 2.2-1119, governing cases in which purchasing through the Division of Purchases and Supply is not mandatory, § 2.2-4304, governing cooperative procurement agreements, and § 53.1-52, governing purchases by state correctional facilities, to reflect the requirement in § 2.2-1303 that purchases of telecommunications and information technology be made through DIT. This bill does not affect any current delegation of authority either by DIT or to institutions of higher education through the 2002-2004 Appropriations Act (this second provision reiterates the second enactment of House Bill 519 from the 2002 Session). The bill also repeals the sunset of July 1, 2003, for reverse auctioning, making it a permanent method of procurement. The original version of this bill is a recommendation of the Joint Commission on Technology and Science. HB 1927; CH. 895.

§ 2.2-1120 amended. Department of General Services, Division of Purchases and Supply; direct purchases. Allows organizations providing transportation services in the Commonwealth and receiving funding from the Federal Transit Administration or the Commonwealth Transportation Board to purchase directly from state contracts established by the Division of Purchases and Supply. The bill also provides for the Department of Rail and Public Transportation to assist the Division in maintaining a list of organizations that would be authorized to make such purchases. SB 1044; CH. 225.

§ 2.2-1151.1 added. Virginia Department of Transportation; conveyance of right-of-way usage. Provides that no land use permit will be issued by the Department of Transportation to any company other than a public service company or a company owning or operating an interstate natural gas pipeline or a franchised cable television systems operator unless the company has (i) registered as an operator with the appropriate notification center and (ii) notified the commercial and residential developer, owner of commercial or multifamily real estate, or local government entities with a property interest in any parcel of land located adjacent to the property over which the land use is being requested, that application for the permit has been made. HB 2563; CH. 330.

§ 2.2-1161.1. See § 52-34.1; HB 1832/SB 1204.

§ 2.2-1201 amended. Department of Human Resource Management; duties. Requires the Department of Human Resource Management to submit a report to the members of the General Assembly on or before September 30 of each year showing the total number of full and part-time classified and contract state employees. HB 1413; CH. 685.

§ 2.2-1201 amended; § 2.2-2903.1 added. Use of accrued annual leave for military service. Requires the Department of Human Resource Management to develop personnel policies that permit any full-time state employee who is also a member of the organized reserve forces to carry forward from year to year his accrued annual leave time without regard to the regulation or policy of his agency regarding the maximum number of hours allowed to be carried forward. Any leave time over the usual amount allowed to be carried forward shall be reserved for use only as leave taken pursuant to active military service. Any leave carried forward remaining upon termination of employment shall not be paid or credited in any way to the employee. HB 1916; CH. 789.

§ 19.2-389 amended; § 2.2-1201.1 added. Department of Human Resource Management; criminal background checks for sensitive positions. Requires the Department of Human Resource Management to develop a statewide policy for designating sensitive positions within each state agency. Such sensitive positions shall include positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures. Final candidates for employment in a position that has been designated as sensitive shall be required, as a condition of employment, to submit to a criminal background check, submit to fingerprinting and provide personal descriptive information, all of which will be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation. SB 1012; CH. 731.

§ 2.2-1303 amended. Department of Information Technology; contracts for personal computers. Authorizes the Department of Information Technology to establish contracts for the purchase of personal computers and related devices by public school teachers for use outside the classroom, provided that no more than one such computer and related device per year shall be so purchased. HB 1761; CH. 352.

§ 2.2-1405 amended. Department of Minority Business Enterprise; reports. Requires the Director of the Department of Minority Business Enterprise to report each year to the Governor and the General Assembly on the state departments and agencies failing to submit annual progress reports on minority business procurement required by § 2.2-4310. HB 2470; CH. 435.

§§ 2.2-1501, 2.2-1509, 2.2-1511, and 2.2-2101 amended; §§ 2.2-2681 through 2.2-2687, 2.2-5510, and 2.2-5511 added. Administration of government; long-term planning; Roadmap for Virginia's Future. Establishes long-term results-based planning for state government through the implementation of the "Roadmap for Virginia's Future" process that includes: (i) developing a set of guiding principles

that are reflective of public sentiment and relevant to critical decision-making, (ii) establishing a long-term vision for the Commonwealth, (iii) conducting a situation analyses of core state service categories, (iv) setting long-term objectives for state services, (v) aligning state services to the long-term objectives, (vi) instituting a planning and performance management system consisting of strategic planning, performance measurement, program evaluation, and performance budgeting, and (vii) performing plan adjustments based on public input and evaluation of the results of the Roadmap. The bill also establishes the Council on Virginia's Future to advise the Governor and the General Assembly on the implementation of the Roadmap for Virginia's Future process and repeals the Performance Management Advisory Committee. In addition, the bill establishes the Government Performance and Results Act which requires each state agency to develop a strategic plan and provides for the Governor to develop an implementation plan for each agency. The bill contains a sunset provision of July 1, 2008. HB 2097; CH. 900.

§ 2.2-1503 amended. Governor; six-year plan review; advisory board of economists. Specifies the inclusion of transportation funds in the six-year revenue plan by the Governor. The bill also sets the number and qualifications of the members of the Advisory Board of Economists. HB 2571; CH. 612.

§ 2.2-1503.3 added. Governor; reestimate of general fund revenues. Provides for the Governor to submit a reestimate of general fund revenues when the preliminary close of a given fiscal year indicates that the total of individual income, corporate income, and sales taxes collected is 1.0 percent or more below the estimated total amount of such taxes included in the budget estimate for that fiscal year. HB 2059; CH. 14.

§ 2.2-1508 amended. Taxpayer's Budget Bill of Rights. Provides that the Executive Budget and the Budget Bill be set forth in a format and use language that is easily understood by the citizens of the Commonwealth. The bill also requires the Executive Budget and the Budget Bill include specific outcomes, functions, and goals that are related to expenditures and provisions for additional public access to information contained in the Executive Budget and the Budget Bill. HB 1838; CH. 190.

§ 2.2-1509.2 added. Budget Bill; money diverted from Transportation Trust Fund and Highway Maintenance and Operating Fund. Provides that the Budget Bill submitted to the General Assembly must include the repayment, within three years, of any money that such Budget Bill proposes to be diverted from the Transportation Trust Fund or the Highway Maintenance and Operating Fund and used for other purposes. If the Governor proposes to use moneys in these funds for other than transportation purposes, he shall include in the corresponding Budget Bill a plan for repayment of any moneys diverted within three years of such use. If such diversion of moneys in these funds is proposed by the General Assembly as an amendment to the Budget Bill, such amendment shall include language providing a plan for repayment of such moneys within three years of such use. HB 1600; CH. 970.

§ 2.2-1829 amended. Budget Bill; additional funds in the Revenue Stabilization Fund. Requires the Governor to include in his annual Budget Bill certain additional deposits to the Revenue Stabilization Fund under certain conditions. HB 1872; CH. 755/ SB 960; CH. 759.

§ 2.2-1837 amended. Division of Risk Management. Obliges the Division to provide for the payment of attorney's fees and expenses awarded to any individual or entity against the Commonwealth for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity, or in reliance upon any constitutional provision, law, or sanctioned practice of the Commonwealth. The bill specifies that, as a condition of coverage, the state entity must (i) promptly inform the Division when a claim has been initiated, (ii) provide the Division with nonprivileged information on the matter, and (iii) permit the Division to participate in the investigation. SB 1027; CH. 828.

§ 2.2-1839 amended. Department of Treasury; risk management plan; inclusion of free clinics. Makes free clinics eligible for participation in the State's risk management plan. HB 2135; CH. 49/ SB 962; CH. 23.

§ 2.2-2101. See § 53.1-10; HB 2427/SB 764.

§ 2.2-2101 amended; §§ 2.2-2642 and 2.2-2643 repealed. Maternal and Child Health Council. Abolishes the Maternal and Child Health Council. The Council was established in 1992 to improve the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health. The State Department of Health, the Department of Education and the Virginia Alliance of School Health currently address maternal and child health services, including perinatal, school health and teen pregnancy and represent a broad spectrum of public, private and academic input. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Board, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 802; CH. 451.

§§ 2.2-2279, 2.2-2285, 2.2-2287, 2.2-2292, 2.2-2294, and 2.2-2295 amended. Small Business Financing Authority; not-for-profit entities. Allows the Small Business Financing Authority the ability to be the statewide conduit issuer of private activity bonds to a 501 (c) (3) entity operating in Virginia. The bill also amends the definitions of "eligible small business" and "small business enterprise." The bill contains technical amendments. SB 838; CH. 339.

§ 2.2-2286. See § 25.1-100; SB 1007.

§ 2.2-2444 amended. Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center. Provides that operations grants for activities of the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center may be awarded up through June 30, 2008. Current law provides that such grants may be awarded up through June 30, 2006. HB 2742; CH. 366.

§§ 2.2-2500, 2.2-2501, and 2.2-2502 repealed. Southside Virginia Business and Education Commission. Abolishes the Southside Virginia Business and Education Commission. The Commission was established in 1991 to enhance the economic development of the Southside region for the benefit of all citizens of the Commonwealth. In 2002, the Council lost all its funding and staff. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 1628; CH. 349.

§ 2.2-2515 amended; § 2.2-2233.1 added. Commonwealth Technology Research Fund continued. Continues the Commonwealth Technology Research Fund originally established by subdivision J 1 of Item 548 of the 2000 Appropriation Act to help Virginia's institutions of higher education attract public and private research funding. The bill changes the agency responsible for the Fund from the Department of Planning and Budget to the Innovative Technology Authority, and expands it to include awards to help Virginia's institutions of higher education enhance their capabilities to commercialize resulting intellectual properties. The bill also requires the Authority to submit an annual report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with detailed information on the awards committed and an evaluation of the Fund. HB 2284; CH. 362.

§§ 2.2-2603 and 2.2-2604 repealed. Blue Ridge Economic Development Advisory Council. Abolishes the Blue Ridge Economic Development Advisory Council. The Council was established to enhance the economic development in the Blue Ridge region of the Commonwealth by assisting in the development of marketing initiatives, establishment of a pilot export program, and identification and implementation of affordable child-care options. The Council does not currently receive funding and has never been constituted. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 1511; CH. 348.

§§ 2.2-2605 through 2.2-2608 repealed. Blue Ridge Regional Education and Training Council. Abolishes the Blue Ridge Regional Education and Training Council. The Council was established in 1992 to provide leadership and coordination for education and business partnership programs and excellence in education in the Blue Ridge region. Funding for the Council and staff have been eliminated. The primary purposes of the Council can be carried out by local Workforce Investment Boards and other entities. This bill is identical to legislation recommended by the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill has a delayed effective date of July 1, 2004. HB 2428; CH. 210.

§§ 2.2-2644 through 2.2-2647. See § 15.2-4217.1; SB 807.

§§ 2.2-2648, 2.2-5202, 2.2-5206, 2.2-5207, and 2.2-5209 amended. Comprehensive Services Act; family assessment and planning team referral. Clarifies that referrals and reviews of children and families under the Comprehensive Services Act may be done by the family and planning team (FAPT) or a collaborative, multidisciplinary team process approved by the State Executive Council. The bill also states that the department of health representative on the FAPT will serve at the request of the chair of the local community policy and management team. HB 1714; CH. 483.

§ 2.2-2648 amended. Administration of government; State Executive Council for Comprehensive Services for At-Risk Youth and Families. Designates the Secretary of Health and Human Resources, or a designated deputy, to chair the Executive Council. The chairman is currently elected from among its member representatives. HB 1955; CH. 498.

§ 2.2-2649 amended. Office of Comprehensive Services for At-Risk Youth and Families; vendor management. Requires the director of the Office of Comprehensive Services for At-Risk Youth and Families, in order to provide support and assistance to the Comprehensive Policy and Management Teams (CPMTs) and Family Assessment and Planning Teams (FAPTs) established pursuant to the Comprehensive Services Act (CSA) to (i) develop and maintain a statewide automated database, with support from the Department of Information Technology or its successor agency, of authorized vendors of CSA services that includes verification of a vendor's licensure status, each CSA service provided by the vendor, and the rate charged by the vendor for each service; (ii) negotiate statewide or regional rates with all vendors that shall be contained in the statewide automated database; (iii) develop, in consultation with the Department of General Services, standardized contracts that CPMTs may use to purchase services; (iv) develop and maintain a web-based CSA information system, with support from the Department of Information Technology or its successor agency, through which CPMTs and vendors report information about CSA clients and services to the Office; (v) develop and implement in collaboration with CPMTs and vendors a reasonable number of critical uniform statewide client outcome and vendor performance measures to be reported, beginning not later than July 1, 2004, by all CPMTs through the web-based CSA information system; and (vi) develop, in collaboration with the CPMTs, FAPTs, and vendors, the data collection tools needed to gather and report client outcome and vendor performance measurement information. HB 1720; CH. 485.

§§ 2.2-2669 and 2.2-2670 amended; § 2.2-2674.1 added. Virginia Workforce Council; membership; powers and duties. Reduces the membership of the Virginia Workforce Council from 43 to 29, and expands the duties of the Council in its implementation of the Workforce Investment Act (WIA). The Council is required to create procedures, guidelines, performance measures, and directives applicable to local workforce investment boards and the operation of one-stop centers required by the WIA. The bill also requires each local workforce investment board to develop and submit to the

Council an annual workforce demand plan for its area based on a survey of local and regional businesses that reflects local employer needs and the availability of trained workers to meet those needs. Finally, the bill lists all programs that shall be mandatory partners in the one-stop centers under the WIA. HB 2075; CH. 642.

§ 2.2-2679. See § 23-9.6:1; HB 2818.

§ 2.2-2705 amended. **Virginia War Memorial Foundation; membership; removal.** Provides that trustees of the Virginia War Memorial Foundation who are appointed by the Governor shall serve at the pleasure of the Governor. Currently, the Governor has the authority to remove any trustees regardless of who appoints them. HB 1625; CH. 239.

§ 2.2-2813 amended. **Compensation and expenses of members of collegial bodies.** Clarifies that the collegial body or the agency that provides support for the work of the collegial body is ultimately responsible for the payment of the compensation and expenses of the members of the collegial body. The bill also clarifies that any payment by the Clerk of the House or the Clerk of the Senate to his respective members for service on a collegial body will be reimbursed by the collegial body or the supporting agency. HB 1449; CH. 821/SB 706; CH. 814.

§ 2.2-2905 amended. **Virginia Personnel Act; exemption.** Exempts employees of the Virginia Tobacco Settlement Foundation from the Virginia Personnel Act. However, the bill provides that such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees. HB 2746; CH. 652.

§§ 2.2-3003 and 2.2-3006 amended. **State grievance procedure.** Clarifies that each level of management review shall have the authority to provide the grieving employee with a remedy, subject to the agency head's approval. The bill also provides that the decision of a hearing officer is effective from the later of the date issued or the date of the conclusion of any administrative review and judicial appeal. This bill is in response to a circuit court holding in *Horner v. Department of Mental Health, Mental Retardation, and Substance Abuse Services*. The bill contains technical amendments. HB 1917; CH. 252.

§§ 2.2-3100, 2.2-3101, 2.2-3105, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3121, 2.2-3126, and 2.2-4369 amended; § 2.2-3104.2 added. **State and Local Conflict of Interest Act.** Amends several provisions of the State and Local Conflict of Interest Act including (i) adding definitions of "parent-subsidiary" and "affiliated business entity" relationships, (ii) providing that an option for ownership of a business or property and an employment contract with a governmental agency may also be a personal interest, (iii) requiring an officer to disclose that a party in a transaction is a client of his firm, (iv) authorizing localities to require their officers, appointees, and employees to disclose all gifts that they receive and to set a dollar limit on gifts that may be accepted, (vi) prohibiting attendance by an off-

icer who has a personal interest in a transaction at any closed meeting where the transaction is discussed, and (v) clarifying that when an attorney for the Commonwealth provides a written opinion to a local government official under the Act, then such opinion is a public record that must be released upon request. The bill is the recommendation of the Joint Subcommittee Studying the State and Local Conflict of Interest Act, HJR 31, (2002). HB 1546; CH. 694.

§ 2.2-3106 amended. **Conflict of interests in contracts for research and development or commercialization of intellectual property.** Authorizes the relevant board of visitors of a public institution of higher education in Virginia or the Eastern Virginia Medical School to delegate its authority to grant waivers to the conflict of interests statute for contracts between a business in which the employee has a personal interest and the institution for a contract for research and development or commercialization of intellectual property. If the board delegates this authority, it must include this delegation of authority in the formal policy required by clause (iii) of subdivision C 7. Additionally, if the board delegates this authority, the bill requires the president of the institution to file with the board of visitors by December 1 an annual report including the same information that the board of visitors is required to file with the Secretary of the Commonwealth under clause (v) of subdivision C 7. HB 2283; CH. 646.

§ 2.2-3202 amended. **Workforce Transition Act; eligibility for transitional benefits.** Extends the eligibility for transitional severance benefits provided under the Workforce Transition Act to agency heads and employees serving in the capacity of chief deputy or confidential assistant for policy or administration provided they were employed by the Commonwealth continuously on a full-time basis for 15 years prior to their appointment as agency head, chief deputy, or confidential assistant. The second enactment clause of the bill limits the extended eligibility to on and after July 1, 2003. HB 1597; CH. 782.

§ 2.2-3310 amended. **Vietnam War Memorial Dedication and Veterans' Recognition Week.** Designates the first full week of November of each year as Vietnam War Memorial Dedication Week and Veterans' Recognition Week in the Commonwealth. Currently, the second Saturday of November is designated as Vietnam War Memorial Dedication Day and Veterans' Recognition Day. HB 1411; CH. 684.

§§ 2.2-3701 and 2.2-3705. See § 38.2-5001; HB 2048.

§ 2.2-3703. See § 37.1-70.1; HB 2445/SB 1149.

§ 2.2-3704 amended. **Freedom of Information Act (FOIA); payment of charges for record production.** Provides that before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing. The bill also contains a technical amendment. The bill is a recommendation of the FOIA Council. SB 738; CH. 275.

§ 2.2-3705. See § 56-573.1; HB 1545.

§ 2.2-3705 amended. Freedom of Information Act; record exemption for employment discrimination investigations conducted by certain local public bodies. Expands the record exemption for investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management to include any such investigations conducted by such personnel of the local governing body who are authorized by law to conduct these investigations in confidence, including local school boards. HB 1651; CH. 307.

§ 2.2-3705 amended; § 36-105.3 added. Protection of certain records in the possession of building officials. Expands the current exemption under the Freedom of Information Act relating to building permit records to include critical structural components, security systems, telecommunications equipment, etc., submitted for the purpose of complying with the Uniform Statewide Building Code or the Statewide Fire Prevention Code, the disclosure of which would jeopardize the safety or security of any public or private commercial, multi-family residential or retail building or its occupants in the event of terrorism or other threat to public safety. The bill requires the owner or lessee to invoke these protections in writing, identify the drawings, plans, or other materials to be protected; and state the reasons why protection is necessary. The bill provides that nothing shall prevent disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event. The bill also requires building officials to institute procedures to ensure these sensitive records are securely stored, handled, and released in accordance with law. HB 1727; CH. 891.

§ 2.2-3705 amended. Unclaimed property; State Treasurer's records. Provides an exemption from disclosure for records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records. HB 1776; CH. 893.

§ 2.2-3705 amended. Freedom of Information Act (FOIA); Board for Branch Pilots; confidentiality of information obtained from chemical testing. Provides a FOIA exemption for records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result. HB 2131; CH. 358.

§ 2.2-3705 amended. Freedom of Information Act; critical infrastructure and vulnerability assessments. Expands the current record exemption for engineering and architectural drawings to protect the safety of any public building or its occupants, by clarifying that records relating to critical infrastructure or structural components, security equipment

and systems, ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, and other utility equipment and systems, as well as vulnerability assessments are exempt. The bill applies to all buildings, whether public or private. The bill requires certain procedures to be followed to protect such records. The bill also provides that nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the structural or environmental soundness of any building, nor shall it prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event. The bill also contains a corollary open meeting exemption for the discussion of such records in a closed meeting. The bill consolidates two related exemptions and contains other technical amendments. HB 2211; CH. 704.

§ 2.2-3705 amended. Freedom of Information Act; record exemption; investigative records of insurance claims. Expands an existing exemption to include investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or potential claim against a public body's insurance policy or self-insurance plan. The bill provides, however, that nothing shall prohibit the disclosure of information, taken from inactive reports upon expiration of the period of limitations for the filing of civil suits. HB 2492; CH. 327.

§ 2.2-3705. See § 22.1-279.8; HB 2621.

§§ 2.2-3705 and 2.2-3711 amended. Freedom of Information Act; exemptions for the Commonwealth Health Research Board. Adds an exemption for records submitted as a grant application, or accompanying a grant application, to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant. The bill also contains a closed meeting exemption for the Commonwealth Health Research Board for discussion of the above records. HB 2658; CH. 332.

§§ 2.2-3705 and 2.2-3711 amended. Virginia Freedom of Information Act; exemptions for contract negotiations. Adds a record exemption for records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. The bill provides that such records shall not be withheld after the public body has made a decision to award or not to award the contract and shall not apply to the release of records in connection with procurement transactions governed by the Virginia Public Procurement Act. The bill also provides

an open meeting exemption for the discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body. The bill is a recommendation of the FOIA Council. SB 737; CH. 274.

§ 2.2-3709 amended. Electronic meetings of the Board of Visitors of the University of Virginia; authority for holding telephonic or video broadcast meetings. Modifies the exception to the Freedom of Information Act requirements for holding telephonic or video broadcast meetings that has been accorded to the Board of Visitors of the University of Virginia. This exception currently requires that two-thirds of the board be physically assembled at its regular or primary location and that no more than 25 percent of all annual meetings be held via electronic means. This provision reduces the requirement for physical presence to a quorum of the Board and provides for electronic meetings to be held at locations other than the regular or primary location of the Board's meetings. The Board of Visitors of the University of Virginia consists of 16 members; however, § 23-74 provides that five members "constitute a quorum." In addition to these changes, public access is limited to hearing the participation during public sessions and the interruption of the telephonic or video broadcast of the meeting will result in suspension of public sessions. The original act authorizing the Board to hold electronic meetings that are removed from the Freedom of Information Act's general rules includes an enactment clause mandating that the Board keep a record of its electronic meetings, record complaints about such meetings, and report on these records to the Secretary of Education and the General Assembly. The bill also extends the sunset clause to July 1, 2005. SB 1344; CH. 475.

§ 2.2-3711 amended. Freedom of Information Act; closed meetings; State Lottery Board. Allows the State Lottery Board to convene a closed meeting for its deliberations in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent. HB 2209; CH. 703.

§ 2.2-3711 amended. Virginia Freedom of Information Act exemption. Allows the Virginia Museum of Natural History to hold closed meetings to discuss or consider matters relating to specific gifts, bequests, and grants. This exemption from the Freedom of Information Act currently extends to the Virginia Museum of Fine Arts and The Science Museum of Virginia. HB 2738; CH. 618.

§ 2.2-3711. See § 54.1-4400; SB 1329.

§ 2.2-3714 amended. Freedom of Information Act; penalties for violation. Increases the civil penalty for willful and knowing violations of the Freedom of Information Act from \$100 to \$250 for the first violation and from \$500 to \$1,000 for any subsequent violation. HB 2086; CH. 319.

§ 2.2-3800 amended. Government Data Collection and Dissemination Practices Act; display of social security

numbers prohibited. Provides that after July 1, 2004, no agency, as defined in § 42.1-77, shall send or deliver or cause to be sent or delivered, any letter or package that displays a social security number on the face of the mailing envelope or package or from which a social security number is visible, whether on the outside or inside of the mailing envelope or package. HB 2062; CH. 791.

§ 2.2-3800 amended. Government Data Collection and Dissemination Practices Act; social security numbers. Prohibits the display of a data subject's entire social security number on any student or employee identification card by public agencies on and after July 1, 2006. HB 2063; CH. 927.

§ 2.2-3800. See § 18.2-186.3; HB 2175.

§ 2.2-3800. See § 18.2-186.3; SB 979.

§ 2.2-3801 amended. Government Data Collection and Dissemination Practices Act; definition of agency. Clarifies that the definition of "agency" in the Government Data Collection and Dissemination Practices Act includes constitutional officers, except as otherwise expressly provided by law. The bill contains a technical amendment. The bill is in response to a recent Virginia Supreme Court decision that held that the Government Data Collection and Dissemination Practices Act does not apply to constitutional officers. HB 2731; CH. 272.

§ 2.2-3802 amended. Government Data Collection and Dissemination Practices Act; exemption. Grants an exemption to the Virginia Racing Commission from the provisions of the Government Data Collection and Dissemination Practices Act (formerly the Privacy Protection Act of 1976). HB 1739; CH. 406.

§ 2.2-3808 amended. Government Data Collection and Dissemination Practices Act; social security numbers. Prohibits agency-issued identification cards, student identification cards, or license certificates issued or replaced after July 1, 2003 from displaying an individual's entire social security number. The bill provides exceptions from the general prohibition for the following circumstances: (i) certain licensing and identification cards issued by the Department of Motor Vehicles prior to July 1, 2003, which are required to be replaced by the December 31 next following the decennial redistricting from the 2010 census; (iii) insurance licenses issued by the State Corporation Commission, which shall be replaced no later than 12 months after the creation and implementation in all states of a national insurance producer identification number, and (iv) road tax licenses issued by the Department of Motor Vehicles to motor carriers under the terms of the International Fuel Tax Agreement. HB 1744; CH. 974.

§ 2.2-3808.2 added. Posting certain information on the Internet; prohibitions. Provides that beginning January 1, 2004, no court clerk shall post on a court-controlled website any document that contains the following information: (i) an actual signature; (ii) a social security number; (iii) a date of birth identified with a particular person; (iv) the maiden name of a person's parent so as to be identified with a particular person; (v) any financial account number or numbers; or (vi) the name

and age of any minor child. The bill also provides an exception for court clerks providing remote access to their records if their network or system that is used to provide the access has been certified by the Department of Technology Planning. It also requires the Department to establish security standards that must be followed by court clerks providing remote access to records in consultation with circuit court clerks, the Supreme Court, the Compensation Board, users of land and other court records, and other interested citizens. The bill has a July 1, 2005, sunset provision. HB 2426; CH. 988.

§§ 2.2-4002, 3.1-398, and 35.1-14 amended. Health; regulations for restaurant and retail food establishments. Provides that the provisions of the Administrative Process Act do not apply to the adoption of the federal Food and Drug Administration Food Code by the Department of Agriculture and Consumer Services and the Department of Health. Under the bill the provisions of the Administrative Process Act pertaining to publication and notice of proposed regulations are applicable to any adoption of the Food Code. Further, the Departments of Agriculture and Consumer Services and Health are required to publish, prior to adopting the Food code, a notice of opportunity for public comment containing certain specified information and to hold at least one public hearing prior to the adoption of the Food Code. The bill also provides that the provisions of the Food and Drug Administration's Food Code shall not apply to farmers selling their own farm-produced products directly to consumers for their personal use, whether such sales occur on such farmer's farm or at a farmers' market, unless such provisions are adopted in accordance with all requirements of the Administrative Process Act. HB 1700; CH. 695.

§ 2.2-4002. See § 32.1-79; HB 1823.

§ 2.2-4006. See § 36-99; HB 2480.

§§ 2.2-4007 and 2.2-4012 amended; § 2.2-4012.1 added.

Administrative Process Act; fast-track rulemaking process. Establishes an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. This legislation is a recommendation of the Virginia Code Commission. SB 1001; CH. 224.

§§ 2.2-4014, 2.2-4031, 2.2-4102, 30-34.10:2, and 30-146 amended; §§ 2.2-4032 and 2.2-4033 repealed. Virginia Register of Regulations. Codifies the current practice of publishing the Virginia Register of Regulations on the Internet and repeals the provision that the Register be provided to certain state and local entities free of charge. The bill also conforms the Code Commission's authority to contract for the printing of the Virginia Register with current authority to contract for the printing of the Code of Virginia and the Virginia Administrative Code, and repeals the provision that subscription fees for printing and distributing the Register be approved by the Commission. In addition, the bill has an emergency clause. HB 2550; CH. 212 (effective 3/16/03).

§ 2.2-4301 amended. Virginia Public Procurement Act; multiphase contracts for professional services for construction and infrastructure projects for localities. Provides that multiphase contracts for professional services satisfactory and advantageous to a local public body for environmental, location, study, design, or inspection work relating to construction or infrastructure projects, may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the first phase is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the local public body shall determine in writing that the nature of the work is such that the best interests of such public body require awarding the contract. HB 1709; CH. 185.

§ 2.2-4301 amended; § 2.2-4321.1 added. Virginia Public Procurement Act; certain transactions prohibited. Prohibits state agencies from contracting for goods and services from vendors who are required to collect use tax on sales of goods delivered into Virginia but fail or refuse to do so. The bill would also prohibit such contracts with any affiliates of such vendor. The bill defines affiliate and requires the Department of Taxation to make a determination of whether a vendor or an affiliate of the vendor is a prohibited source. The bill provides for appeals of the Tax Department's determination and sets out the remedies. HB 2533; CH. 994/SB 938; CH. 1006.

§ 2.2-4303 amended. Virginia Public Procurement Act; reverse auctioning. Removes the sunset provision of July 1, 2003, for the use of reverse auctioning. As a result, reverse auctioning becomes an authorized method of procurement except that bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be procured by reverse auctioning. HB 2192; CH. 644.

§ 2.2-4304 amended. Virginia Public Procurement Act; cooperative procurement. Clarifies that except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. HB 2701; CH. 651.

§§ 2.2-4310 and 2.2-4343 amended. Department of General Services; Public Procurement Act; preference for businesses that hire ex-felons. Prohibits discrimination by state agencies against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. The bill also exempts the Department of Corrections from the Public Procurement Act when in its selection of pre-release and post-incarceration services. SB 1064; CH. 226.

§ 2.2-4341 amended. Virginia Public Procurement Act; payment bonds. Clarifies that any claimant who has a direct contractual relationship with the contractor, regardless of any contractual relationship with a subcontractor, may bring an action on the contractor's payment bond. HB 2050; CH. 255.

§ 2.2-4343 amended. Chippokes Plantation Farm Foundation. Exempts the Board of the Chippokes Plantation Farm Foundation from the Virginia Public Procurement Act when entering into agreements with private persons for the construction, operation, and maintenance of projects that are (i) consistent with the Chippokes Plantation State Park Master Plan approved by the Director of the Department of Conservation and Recreation and (ii) designed to further an appreciation for rural living and the contributions of the agricultural, forestry, and natural resource based industries of the Commonwealth. Such project must be supported solely by nonstate funding sources. SB 951; CH. 1008.

§§ 2.2-5100, 2.2-5101, and 2.2-5102 amended. Virginia Investment Partnership Act; Virginia Investment Performance Grants. Provides that any eligible manufacturer located in a fiscally distressed area of the State, as defined in the guidelines implementing the Virginia Investment Partnership Act, shall be eligible to begin receiving grants in the fourth year after the capital investment is completed and verified instead of the sixth year. The bill also amends the definition of "major eligible employer." HB 2328; CH. 17.

§ 2.2-5201 amended. Administration of government; Comprehensive Services for At-Risk Youth and Families (CSA). Requires that the chairman of the state and local advisory team for CSA shall be elected from among the local government representatives. HB 1956; CH. 499.

TITLE 2.2. MISCELLANEOUS - ADMINISTRATION OF GOVERNMENT.

Albert G. Horton, Jr. Memorial Veterans' Cemetery. Designates the state veterans' cemetery to be established in Hampton Roads as the "Albert G. Horton, Jr. Memorial Veterans' Cemetery." HB 1528; CH. 235.

Conveyance of easement. Authorizes the Department of General Services to negotiate with all necessary parties regarding the security of the alley running between 8th and 9th Streets in Richmond, separating the Supreme Court of Virginia Building and St. Paul's Episcopal Church, and if determined appropriate, to acquire the alley and convey an easement to St. Paul's Episcopal Church to permit vehicles parked in the church's parking garage to enter and exit the parking garage. SB 1305; CH. 230.

Space Radiation Effects Laboratory. Repeals the authorization to enter into a joint agreement to operate and manage such a laboratory because the laboratory was decommissioned around 1980 and sold. This bill is a recommendation of the Virginia Code Commission. HB 1478; CH. 586.

State travel guidelines. Requires that the governing bodies of the Virginia Economic Development Partnership, the Virginia Tourism Authority, and the Virginia Port Authority shall establish policies on travel expenses that are substantially consistent

with the policies on travel expenses established by the State Comptroller. The bill further provides that if a particular travel reimbursement situation is not covered by the policies or the amount of expense or reimbursement is greater than 10 percent of what is allowed by the policies, then approval must be obtained by the traveler from the cabinet secretary to which the governing body reports. HB 2079; CH. 601.

Veterans Care Center; to be named after certain Medal of Honor recipients. Provides that the second Virginia Veterans Care Center, to be constructed on the property of the McGuire V.A. Hospital, shall be named in the honor of Richmond-area Medal of Honor recipients Colonel Carl Sitter, U.S. Marine Corps, Retired and Colonel Van Barfoot, U.S. Army, Retired. The Virginia Veterans Care Center Board of Trustees shall place and maintain appropriate markers indicating this designation. HB 1793; CH. 244.

Virginia Freedom of Information Act; electronic communication meetings. Extends the exemption of certain public bodies from the Virginia Freedom of Information Act's electronic communication meeting restrictions to public bodies in the legislative branch and any authority, board, bureau, commission, district or agency of the Commonwealth whose membership includes persons who reside or work more than 55 miles from the meeting location as stated in the required notice for such meeting. The bill also provides that these public bodies make an audio or audio/visual recording of the meeting that must be retained for three years. All authorized public bodies are required to submit a report detailing their experience with meetings held under this pilot program to the Freedom of Information Advisory Council and the Joint Commission on Technology and Science. The chairman of any meeting so held is required to make an announcement of the reporting provision during the course of such meeting. The bill also changes the required reporting date from April 15, 2003, to September 1 of each year and extends the sunset from July 1, 2003, to July 1, 2005. The bill contains an emergency clause. SB 1203; CH. 346 (effective 3/16/03).

Virginia Public Building Authority; Capitol Square Preservation Act of 2003. Authorizes the Virginia Public Building Authority to issue bonds in a principal amount not to exceed \$118,570,000 to finance the improvement and furnishing of certain buildings located within the boundaries of Capitol Square that were originally built before 1950. HB 2804; CH. 955.

Virginia Research and Technology Advisory Commission (VRTAC); strategies for the incubation of science and technology industries; report. Directs VRTAC to develop strategies for the incubation of new science and technology industries in the Commonwealth. The Commission is required to provide a report of such strategies to the Governor and the General Assembly by November 30, 2003. HB 2639; CH. 365.

Virginia Research and Technology Advisory Commission (VRTAC); strategic plan for research and development; report. Directs VRTAC, in conjunction with the Secretaries of Technology, Commerce and Trade, and Education, to develop

strategies for research and development in the Commonwealth. The Commission is required to provide a report of such strategies to the Governor and the General Assembly by November 30, 2003. The Innovative Technology Authority, Virginia Economic Development Partnership, and State Council of Higher Education shall provide staff support to the Commission. HB 2760; CH. 653.

TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD.

§§ 3.1-18.4 and 3.1-18.5 amended. Preservation of important farmlands. Authorizes state agencies and local governments, for the purposes of receiving federal funds, with the cooperation of the United States Department of Agriculture, to designate state and locally important soils, which include prime, unique, and locally important farmland. The bill also defines farmland, prime farmland and unique farmland. In addition, the bill requires landowner consent for individual participation in any state program that is based on such designation. SB 1052; CH. 384.

§§ 3.1-336.3 through 3.1-336.16 added. Enforcement of requirements for tobacco product manufacturers; penalty. Includes a number of procedural enhancements in order to aid enforcement and thereby prevent violations of the Model Act. The enhancements include: (i) a requirement that every tobacco product manufacturer whose cigarettes are sold in the Commonwealth certify the Tax Commissioner and Attorney General that it is either a participating manufacturer for purposes of the Master Settlement Agreement or is in full compliance as a nonparticipating manufacturer; (ii) a requirement that the Attorney General develop and publish on the Attorney General's website a directory listing all tobacco product manufacturers that have provided current and accurate certifications; (iii) a prohibition against stamping, selling, or importing cigarettes not in the directory; (iv) the appointment of an agent in the Commonwealth for service of process for any nonresident or foreign nonparticipating manufacturer and notice of such agent's termination; (v) reporting quarterly information by the stamping agent as the Tax Commissioner and Attorney General require to facilitate compliance with this act; (vi) proof from the financial institutional that the nonparticipating manufacturer has established a qualified escrow fund; and (vii) a penalty not to exceed the greater of 500 percent of the retail value of the cigarettes sold or \$5,000, for any violation involving stamping, selling or importing cigarettes not in the directory. HB 2536; CH. 798.

§§ 3.1-385.1 through 3.1-385.8 repealed. Virginia Organic Food Act. Repeals the Virginia Organic Food Act to comply with a recent federal law prohibiting states from having separate organic standards. HB 2527; CH. 952.

§ 3.1-398. See § 2.2-4002; HB 1700.

§§ 3.1-398.1 and 3.1-399 amended. Food inspections. Exempts nonprofit organizations holding one-day food sales from inspections by the Virginia Department of Agriculture and Consumer Services. HB 2074; CH. 420.

§§ 3.1-741.3, 3.1-741.4, and 3.1-741.5 added. Avian influenza. Authorizes the State Veterinarian to require that any chicken, turkey, waterfowl, game bird, or other avian that is susceptible to avian influenza be tested for avian influenza before importation into Virginia from another state if (i) avian influenza has been found in that state, (ii) conditions in that state render the importation of any specific type of subject avian a menace to the health of any animal in the Commonwealth, or (iii) the protection of any animal in the Commonwealth from avian influenza so requires. This bill establishes a testing protocol for such birds, and provides several exemptions from testing requirements. HB 2641; CH. 544/SB 1249; CH. 551.

§§ 3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.73, 3.1-796.96, 3.1-796.96:2, and 3.1-796.96:5 amended; §§ 3.1-796.96:6 and 3.1-796.96:7 added; §§ 3.1-796.96:3 and 3.1-796.96:4 repealed. Animal rescues. Amends the Comprehensive Animal Laws by adding: (i) definitions of facility, foster care provider and home-based rescue; (ii) requirements for pounds and animal shelters to provide a signed statement to the State Veterinarian certifying that none of the directors, operators, staff, or animal caregivers has ever been convicted of animal cruelty, neglect, or abandonment; (iii) a section providing for the confinement and disposition of companion animals by entities other than pounds and animal shelters; (iv) requirements for foster homes; and (v) various notification requirements regarding found companion animals. This bill also clarifies the definition of animal shelter by specifically excluding residential dwellings and their surrounding property. This bill deletes language providing the State Veterinarian with the authority to conduct inspections of companion animal foster homes, the registration requirements for companion animal rescue agencies and foster homes, and all references to companion animal rescue agencies. SB 950; CH. 1007

§ 3.1-796.93:1 amended; § 3.1-796.127:1 added. Dogs injuring or killing other companion animals. Adds to the definition of "dangerous dog" a dog that attacks or bites another dog and causes serious physical injury to the other dog. Dogs that injure (i) dogs owned by the same person, (ii) dogs engaged in lawful hunting, or (iii) dogs participating in an organized, lawful handling event are excluded. In localities that regulate dangerous dogs, owners of dogs found to be dangerous must obtain a special registration certificate, confine the dog in a specified way, and follow other requirements. The current definition of "dangerous dog" includes dogs that attack companion animals other than dogs. This bill entitles the owner of any companion animal that is injured or killed by a dog to recover damages if (a) the injury occurred on the companion animal owner's premises and (b) the owner of the offending dog did not have permission from the companion animal's owner to have his dog on the premises. HB 1831; CH. 841.

§ 3.1-796.93:1 amended. Dangerous or vicious dogs. Adds animal control officers' previous findings of dangerous dogs to the list of factors in determining if a dog is a vicious dog. This bill removes the \$50 cap on the dangerous dog registration fee and authorizes the localities to set the fee at an amount not to exceed the costs of administering the dangerous dog ordinance. The bill also increases from \$50,000 to \$100,000 the amount of liability insurance that a locality could require for animal bites if it has adopted the permissive insurance provision as part of its dangerous dog ordinance. HB 1861; CH. 785.

§§ 3.1-796.96:2, 3.1-796.96:5, and 3.1-796.120 amended. Pounds and animal shelters; penalties. Amends sections of the Comprehensive Animal Laws to provide consistency and eliminate duplicative subsections. This bill changes who may assess civil penalties for animal shelters that violate the Comprehensive Animal Laws from the Department of Agriculture and Consumer Services to the Board of Agriculture and Consumer Services, to be consistent with the penalties provided for pounds in § 3.1-796.96. This bill deletes the penalty and injunctive relief subsections in § 3.1-796.120 because they are duplicative of subsections E and F of § 3.1-796.96:2. SB 1045; CH. 770.

§ 3.1-796.98 amended. Confinement of animals exposed to rabies. Reduces the confinement period for exposure to rabies for dogs and cats that are currently vaccinated for rabies from 90 days to 45 days. The Center for Disease Control recommends dogs and cats with current vaccinations be kept under observation for 45 days if they are exposed to rabies. HB 1598; CH. 479.

§ 3.1-796.104 amended. Animal control officers. Authorizes animal control officers to obtain a felony warrant as necessary to enforce the Comprehensive Animal Laws provided that the execution of the warrant is carried out by a law-enforcement officer as defined by the Commonwealth Public Safety Title 9.1 of the Code of Virginia. HB 2705; CH. 804.

§§ 3.1-796.106, 3.1-796.106:1, and 3.1-796.106:2 amended. Humane investigators. Phases out the humane investigator program but allows those appointed prior to July 1, 2003, to be reappointed for three-year terms by the circuit court. The bill also provides for circuit court appointment of humane investigators to fill vacancies when those appointed prior to July 1, 2003, are no longer willing or eligible to serve. A person may be eligible for such appointment if he (i) receives written recommendation from the local animal control administrative entity, (ii) passes a criminal background check, and (iii) completes an animal control course. The bill requires humane investigators to report to the local animal control administrative agency instead of the State Veterinarian. HB 2703; CH. 858.

§§ 3.1-796.122, 18.2-403.2, and 33.1-346 amended. Abandoning or dumping companion animals. Removes abandoning and dumping any companion animal as animal cruelty. The bill adds disposal of a companion animal to the littering section of the highway laws, which carries a penalty of confinement in jail for not more than 12 months and a fine of not less than \$250 or more than \$2,500, either or both. How-

ever, the court may suspend the imposition of any sentence on the condition that the defendant volunteer his services to remove litter from the highway. HB 1865; CH. 787.

§ 3.1-796.122 amended. Possession and ownership of companion animals. Gives judges the authority to ban any person convicted of animal cruelty from owning other companion animals. HB 1866; CH. 788.

§§ 3.1-796.124 and 3.1-796.125 amended. Dog fighting. Adds possessing, owning, training, transporting, or selling dogs for the purpose of dogfighting to the dogfighting prohibitions. These acts are Class 6 felonies, as are the acts currently included in the dogfighting section. Any person who violates the dogfighting statute is required to pay the costs incurred in housing or euthanizing the confiscated dogs. The bill also prohibits attendance at dogfighting events and subjects violators to a Class 1 misdemeanor. HB 2689; CH. 857.

§§ 3.1-796.130, 3.1-796.132, and 3.1-796.133 amended. Equine Liability. Expands the group of people afforded liability protection under the Equine Activity Liability Act to include any person, a corporation, partnership, or limited liability company. This bill limits liability for injury to a person resulting from the "intrinsic dangers of equine activities" and bars claims or recovery for injury, loss, damage, or death of a person resulting from the "intrinsic dangers of equine activities." "Intrinsic dangers of equine activities" is defined as those dangers or conditions that are an integral part of equine activities, including but not limited to, (i) the propensity of equines to behave in ways that may result in injury, harm, or death to persons on or around them; (ii) the unpredictability of an equine's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals; (iii) certain hazards such as surface and subsurface conditions; (iv) collisions with other animals or objects; and (v) the potential of a participant acting in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the equine or not acting within the participant's ability. Currently, equine activity sponsors and equine professionals are not liable for injury to a person who directly engages in an equine activity. SB 1048; CH. 876.

§ 3.1-1108. See § 30-156; SB 1315.

TITLE 4.1. ALCOHOLIC BEVERAGES CONTROL ACT.

§§ 4.1-111, 4.1-325, and 4.1-325.2 amended. Alcoholic beverage control; gifts of alcoholic beverages by licensees. Allows retail licensees of the Alcoholic Beverage Control (ABC) Board to give gifts of alcoholic beverages under certain circumstances outlined in the bill. The bill also authorizes the ABC Board, by regulation, to establish limitations on the quantity and value of any such gifts. HB 2652; CH. 856.

§§ 4.1-132, 4.1-207, 4.1-212, and 4.1-238 amended. **Alcoholic beverage control; wine licenses; off-premises bonded warehouses.** Expands the privileges of a winery and farm winery licensee to store wine in bonded warehouses on or off the licensed premises, provided such licensees obtain a permit from the ABC Board. The bill requires such licensees to post a bond to cover the tax liability of such licensee. The bill contains technical amendments related to this change. SB 798; CH. 564.

§ 4.1-201 amended. **Alcoholic beverage control; farm wineries; shipments to other farm wineries.** Authorizes any farm winery licensee to sell and ship or deliver its wine in closed containers to another farm winery licensee, the wine so sold and shipped or delivered to be used by the receiving farm winery licensee in the manufacture of wine. Any wine received under this bill shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219. Provides for recordkeeping as to the source of such fruit or agricultural products transferred. SB 1201; CH. 630.

§§ 4.1-204, 4.1-207, 4.1-208, 4.1-209, 4.1-215, 4.1-230, 4.1-231, and 4.1-310 amended; § 4.1-112.1 added. **Alcoholic beverage control; wine and beer shippers' licenses.** Provides for licensure by the ABC Board of wineries, farm wineries and breweries located within and outside of the Commonwealth to sell, deliver or ship by common carrier no more than two cases of wine or beer per consumer per month, in closed containers, to persons to whom alcoholic beverages may be lawfully sold in the Commonwealth for their personal use only and not for resale. Persons within or outside the Commonwealth, who are not wineries, farm wineries, or breweries may also apply for wine and/or beer shippers' licenses. Wineries, farm wineries, or breweries that apply for a shippers' license or that authorize any other person, other than retail off-premises licensees, to apply for a license shall notify any wholesale licensees that have been authorized to distribute such brands that an application has been filed for a shipper's license. Any applicant for a shipper's license must obtain the written consent of the winery, farm winery or brewery whose brands they propose to ship. Written authorization by the winery, farm winery or brewery may be withdrawn at any time. Such licensees are required to affix a conspicuous notice in 16-point type or greater to the outside of each shipping container of wine so shipped stating: "CONTAINS ALCOHOL BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." The bill provides that each shipment of wine or beer by a licensed shipper to a person in the Commonwealth shall be deemed to be sold in Virginia. Licensees collect taxes and remit such taxes to the Commonwealth on a monthly basis and are required to meet recordkeeping requirements. All deliveries of wine, farm wine and/or beer shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine or beer shipper licensee or any applicant for such license. HB

1652; CH. 1030 (effective-see bill)/SB 1117; CH.1029 (effective-see bill).

§ 4.1-207 amended. **Alcoholic beverage control; farm winery licenses.** Increases from two to five the number of additional retail outlets at which a holder of a farm winery license may sell such wine. The bill also provides that it is the intent of the General Assembly that any provision of this act shall be severable if a court of competent jurisdiction renders a final, nonappealable decision that it is unconstitutional to confer the licensed privileges afforded by this act while simultaneously withholding comparable privileges from wineries located out of state. SB 1200; CH. 629.

§§ 4.1-208 and 4.1-209 amended. **Erroneous cross references.** Eliminates two cross references to a section repealed in 2002. HB 2540; CH. 329.

§ 4.1-209 amended. **Alcoholic beverage control; wine and beer licenses; outdoor performing arts facility.** Authorizes the granting by the ABC Board of a retail wine and beer license to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility in the City of Charlottesville. HB 1601; CH. 589.

§ 4.1-219 amended. **Alcoholic beverage control; Class A farm wineries.** Provides that, upon petition of the Department of Agriculture and Consumer Services (VDACS), the ABC Board may also permit the use by a Class A farm winery of a lesser percentage of products grown or produced on the farm if unusually severe weather or disease conditions cause a significant reduction in the availability of fruit or other agricultural products grown or produced on the farm to manufacture wine during a given license year. Currently, upon a petition by VDACS, the ABC Board may permit the use of a greater quantity of out-of-state products if supplies grown or produced in the Commonwealth are insufficient for a farm winery licensee, whether Class A or Class B, to achieve the level of production that otherwise could be anticipated during a given license year. SB 1202; CH. 631.

§ 4.1-225 amended. **Alcoholic beverage control; grounds for which ABC Board may suspend or revoke licenses.** Clarifies that the ABC Board may suspend or revoke a retail license if the place occupied by the licensee has become a place where illegal drugs are regularly used or distributed. HB 1775; CH. 594.

§ 4.1-305 amended. **Underage alcohol possession.** Provides that prosecution for underage possession of alcohol may occur either in the county or city in which the alcohol was consumed or in the county or city in which the person exhibited evidence of prior consumption. HB 2000; CH. 845.

§ 4.1-305 amended. **Probation for underage alcohol possession.** Provides that a person convicted of underage possession of alcohol or using a false identification to purchase alcohol may be placed on probation pursuant to deferred disposition and referred to a community-based probation program if such program has been established as an alternative to a referral to a Virginia Alcohol Safety Action program or Department of

Mental Health, Mental Retardation and Substance Abuse Services program if a community-based program is available. HB 2229; CH. 849.

§ 4.1-352 amended. Certificate of forensic scientist as evidence. Removes references to "chemist" in section involving analysis of alcohol samples, correcting them to forensic scientist. The bill also allows a forensic scientist's certificate of analysis of alcohol into evidence without being sworn, only signed. HB 1918; CH. 130.

TITLE 5.1. AVIATION.

§§ 5.1-2.5, 5.1-34, and 5.1-160. See § 25.1-100; SB 1007.

TITLE 5.1. MISCELLANEOUS - AVIATION.

Peninsula Airport Commission. Provides that the chairman of the Commission will be paid \$200 per month, and other members of the Commission will be paid \$175 per month. SB 1231; CH. 171.

TITLE 6.1. BANKING AND FINANCE.

§§ 6.1-5 and 6.1-58.1 amended; § 6.1-58.3 added. Real estate brokerage subsidiaries of banks. Establishes conditions under which state banks are authorized to own a real estate brokerage firm. The measure also provides that a real estate broker is not prohibited from owning or operating a state bank. HB 1930; CH. 558/SB 1194; CH. 536.

§ 6.1-5 amended; §§ 6.1-32.30:1 through 6.1-32.30:7 added. Private Trust Company Act. Establishes criteria under which a private trust company may obtain authorization to engage in the private trust business in Virginia. A private trust company is a corporation or limited liability company authorized by the State Corporation Commission to perform the duties of a fiduciary for members of the family that created the private trust company, but not for members of the general public. The private trust company may act as a trustee of family trusts and as executor of a deceased family member. HB 2748; CH. 910.

§ 6.1-112. See § 13.1-316; HB 1753.

§§ 6.1-194.69 and 6.1-194.136. See § 8.1-101; HB 1778.

§ 6.1-330.78:1 added. Exceptions to legal rate of interest; exercising stock options. Excludes loans that fund the exercise of stock options from the general prohibition on contracts that require the payment of interest at rates exceeding 12 percent annually. HB 2579; CH. 439.

§ 6.1-332.1 amended; §§ 11-9.7 and 54.1-2989.1 added.

Limited access to safe-deposit box; possession of advance medical directives; possession of powers of attorney. Requires a letter from a physician documenting the mental incapacity of the sole lessee of the safe-deposit box before allowing access to the spouse or next-of-kin to look for a power of attorney or advance medical directive. The letter must state that the lessee is incapable of receiving and evaluating information effectively or responding to people, events or environments to such an extent that the individual lacks certain specified capacities. Under current law it is within the bank or company's discretion whether to require a letter and the contents are not specified. The bill further provides that persons dealing with an attorney-in-fact or agent shall have no obligation to inquire into the manner or circumstances by which possession of the power of attorney or advance medical directive was acquired, provided that a court may consider such manner or circumstances as relevant factors in any proceeding brought to terminate, suspend or limit the authority of the attorney-in-fact or other agent or revoke the directive. HB 2648; CH. 269.

§ 6.1-334 amended. Opening of safety deposit box. Removes the requirement that a bank, trust company, or other corporation, retain an outside notary public to be present with a bank officer for the opening of a safe deposit box due to nonpayment of rent. Only two bank employees, one of whom is a notary, must be present at the opening of the box. HB 2488; CH. 437.

§§ 6.1-411 and 6.1-422.1 amended; §§ 6.1-425.1 and 6.1-425.2 added. Mortgage Lender and Broker Act; predatory practices. Contains recommendations of the Virginia Housing Study Commission to strengthen consumer protection measures in the Mortgage Lender and Broker Act. The State Corporation Commission (SCC) may suspend individuals convicted of fraud or other crimes from working in the mortgage lending industry, and registered lenders and brokers must file with the SCC a notice of the filing of bankruptcy, denial or revocation of opportunity to engage in business in another state, or felony indictments. SB 1103; CH. 386.

§§ 6.1-456, 6.1-459, 6.1-465, and 6.1-467 amended. Payday loan advertising. Requires a payday lender to include in any advertising materials that include the amount of any payment, or amount of any finance charge, a statement of the fees and charges, expressed as an annual percentage rate, on such loans. The statements shall use as an example a \$300 loan payable in 14 days. The disclosure statements shall be conspicuous. The measure also makes several technical amendments regarding persons required to be licensed under the Payday Loan Act. HB 1769; CH. 593.

**TITLE 8.01. CIVIL REMEDIES AND
PROCEDURE.**

§ 8.01-3 amended; § 17.1-318 repealed. Rules of Court. Provides that the Supreme Court will no longer have to distribute the Rules of Court to certain parties listed in the Code. Amendments to the Rules of Court are placed on the Supreme Court's Internet site as soon as they are adopted and this is the primary source for the bench, bar and public to become aware of new Rules. The Rules are also published in Virginia Lawyer's Weekly and included in the Code of Virginia when it is updated. The bill also deletes the requirement that circuit court clerks keep a special book of Rules and amendments to the Rules. The bill will save approximately \$7,500 in printing costs and was recommended by the Judicial Council for this reason. SB 856; CH. 280.

§ 8.01-9 amended. Incarcerated felon divorce; guardian ad litem. Provides that the guardian ad litem that must be appointed for an incarcerated felon in a divorce action will be paid for out of the criminal fund in certain limited circumstances involving domestic physical or sexual assault. The guardian ad litem fee will be taxed against the felon as a part of the costs of the proceeding and, if collected, repaid to the Commonwealth. SB 788; CH. 563.

§ 8.01-15.1 added. Anonymous plaintiff. Provides that any party can move for an order concerning the propriety of anonymous participation in a proceeding and lists the factors that the court is to consider in determining whether anonymity can be maintained. The issue may be raised at any stage of the litigation when circumstances warrant a reconsideration of the issue. If the court orders identification, the pleadings and dockets will be amended to reflect the true name back to date of filing. Where a party is proceeding anonymously, the court shall ensure that the parties are afforded all the rights, procedures, and discovery to which they are otherwise entitled. This bill is a recommendation of the Boyd-Graves Conference. SB 985; CH. 572.

§ 8.01-27.1 amended. Civil remedies; suit for bad check. Increases the processing fee for bad checks from \$25 to \$35 and allows the holder to recover reasonable attorney's fees if awarded by the court. HB 1425; CH. 233.

§ 8.01-32 amended. Lost evidences of debt. Adds "contract" and "open account agreement" to documents evidencing debt upon which a civil action may be maintained where no written evidence of those documents exists. The bill requires the plaintiff to verify under oath that the evidence of debt has been lost or destroyed and eliminates the requirement for a bond. This modification tracks with current procedure in many Virginia courts. Where a copy of the lost original exists, the bill requires the court to give effect to the copy as if the original had been placed in evidence. HB 1840; CH. 125.

§ 8.01-40.2. See § 59.1-200; HB 2618.

§ 8.01-47. See § 22.1-279.3:1; HB 2680.

§ 8.01-53 amended. Class and beneficiaries; when determined. Adds as a new class of beneficiaries under the Virginia wrongful death act the beneficiaries who inherit when a person dies intestate. SB 1243; CH. 632.

§§ 8.01-66.2, 8.01-66.5, 8.01-66.6, 8.01-66.8, and 8.01-66.9 amended. Personal injury claims; Commonwealth's lien. Adds nursing homes to the medical service providers that have liens on an injured person's personal injury claim. The bill provides that in any action against a nursing home for personal injuries or wrongful death, the injured party or his personal representative must give notice of the suit to the Department of Medical Assistance Services (DMAS) if DMAS has paid for any health care services. Notice must be provided within 60 days of filing the lawsuit or within 21 days of determining that DMAS has paid for health care services, whichever is later. The bill requires that DMAS respond in writing to requests for lien amounts within 60 days of receipt of any such request. HB 2741; CH. 525.

§§ 8.01-66.2, 8.01-66.5, 8.01-66.7, and 8.01-66.8 amended; § 43-63.1 repealed. Lien for ambulance service. Increases from \$50 to \$200 the maximum lien that an ambulance service may have on the personal injury claim of the person to whom the ambulance service was provided, and incorporates the lien provisions for ambulance service into Title 8.01, Chapter 3, Article 7.1. The lien amount for ambulance service has not been amended since it was enacted in 1956. SB 841; CH. 455.

§§ 8.01-217 and 20-121.4 amended. Name change; preventing identity theft. Provides that the court order granting a name change contains only the person's old name or names, new name, and address, and not the sensitive information (such as the applicant's mother's maiden name and possibly the applicant's social security number) required for the name change application. The bill thus protects sensitive information from being included in the public order and deed books, while ensuring that all necessary information is retained in the person's complete court file and is transmitted, as necessary, to the State Registrar of Vital Records and the Central Criminal Records Exchange. The bill also requires that name changes ordered as part of a decree of divorce are issued as separate orders, so that detailed and sensitive information contained within the decree of divorce (such as the names of minor children, and custody and support arrangements) is not disclosed in the order or deed books. HB 2305; CH. 258.

§ 8.01-225. See § 32.1-111.14:1; HB 1860.

§ 8.01-225 amended. Hospital and health care worker immunity; smallpox vaccine. Provides that, in the absence of gross negligence or willful misconduct, (i) a health care provider that administers the smallpox vaccine to health care workers is not civilly liable for vaccine-related injuries to its health care workers or to third parties who are injured by close contact with the vaccinated health care workers and (ii) the immunized health care worker is not liable for any injuries sustained by a person who has indirect or direct contact with

the worker. A "health care provider" is one participating in a smallpox preparedness program pursuant to a declaration by the Department of Health and Human Services through which individuals associated with the health care provider have received the smallpox vaccine or other smallpox countermeasure. A "health care worker" means a health care worker to whom a smallpox vaccine or other smallpox countermeasure has been administered as part of a smallpox preparedness program pursuant to a declaration by the Department of Health and Human Services. In order for immunity to attach, the vaccine must be administered in accordance with the recommendations of the Centers for Disease Control and Prevention relating to immunization of health care workers. The act is in force from the date of its passage, and the immunity provisions expire on July 1, 2005. SB 897; CH. 18 (effective 3/5/03).

§ 8.01-225. See § 32.1-111.4; SB 1224.

§ 8.01-225.01 added. Certain immunity for health care providers during man-made disasters under specific circumstances. Provides, in the absence of gross negligence or willful misconduct, any health care provider who responds to a man-made disaster by delivering health care to persons injured in such man-made disaster immunity from civil liability for any injury or wrongful death arising from abandonment by such health care provider of any person to whom such health care provider owes a duty to provide health care when (i) a state or local emergency has been or is subsequently declared relating to such man-made disaster; and (ii) the provider was unable to provide the requisite health care to the person to whom he owed such duty of care as a result of the provider's voluntary or mandatory response to the relevant man-made disaster. This provision also provides, in the absence of gross negligence or willful misconduct, any hospital or other entity credentialing health care providers to deliver health care in response to a man-made disaster immunity from civil liability for any cause of action arising out of such credentialing or granting of practice privileges if (i) a state or local emergency has been or is subsequently declared relating to such man-made disaster; and (ii) the hospital has followed procedures for such credentialing and granting of practice privileges that are consistent with the Joint Commission on Accreditation of Healthcare Organizations' standards for granting emergency practice privileges. This bill notes that "health care provider" means those professions defined in the medical malpractice law and "man-made disaster" means the circumstances described in the emergency services and disaster law. Further, the immunity provided by the new section in this bill will be in addition to, and, not be in lieu of, any immunities provided in other state or federal law, including, but not limited to, Virginia's Good Samaritan law and emergency services and disaster law. HB 2184; CH. 507.

§ 8.01-226.1 amended. Lawyers Helping Lawyers; civil immunity. Revises statute that grants civil immunity for persons assisting in Lawyers Helping Lawyers to reflect its change in status from an entity of the Virginia Bar Association to a free-standing Virginia nonprofit, nonstock corporation. Lawyers Helping Lawyers provides help to members of the legal

profession who have substance abuse problems or are suffering from mental illness. SB 984; CH. 571.

§ 8.01-226.5:2. See § 18.2-371; HB 2447/SB 1151.

§§ 8.01-384.1:1 and 19.2-164 amended. Court interpreters. Provides that the court shall fix the compensation of qualified interpreters, appointed by the court in civil and criminal cases for non-English speaking parties or witnesses, in accordance with guidelines set by the Judicial Council. This bill is a recommendation of the Judicial Council. SB 970; CH. 1011

§ 8.01-390.2. See § 19.2-188; SB 1002.

§ 8.01-470 amended. Writs of possession; unlawful detainer. Clarifies that a sheriff shall evict, pursuant to a writ of possession, tenants named in the writ of possession and their authorized occupants, guests or invitees, and any trespassers in the premises. HB 2343; CH. 259.

§ 8.01-471. See § 55-248.34:1; HB 2342.

§§ 8.01-514 and 16.1-99 amended. Wage garnishments. Provides that wage garnishments are permitted to last up to 180 days, and that a writ of fieri facias issued in a wage garnishment shall be returnable not more than 180 days after the date of issuance. HB 1458; CH. 234.

§ 8.01-581.1 amended. Medical malpractice action limitation; private emergency medical care attendants or technicians. Adds emergency medical care attendants or technicians who provide fee-based emergency medical services to the definition of health care providers for purposes of the limitation on liability for medical malpractice actions. HB 1770; CH. 487.

§ 8.01-581.1 amended. Medical malpractice; independent contractors. Adds independent contractors to the definition of health care provider for purposes of medical malpractice claims. HB 1864; CH. 492.

§ 8.01-581.14 repealed. Medical malpractice; former rate review board. Repeals an obsolete Code provision that gave immunity to members of the rate review board established by the Virginia Hospital Association. The board is no longer in existence. This legislation is a recommendation of the Virginia Code Commission. HB 1477; CH. 397.

§ 8.01-581.20 amended. Medical malpractice; expert witnesses. Limits the number of expert witnesses a party may designate, identify, or call to testify to no more than two per medical discipline on any issue presented. The bill does not limit the number of treating health care providers who may be called as witnesses. The bill permits the court to waive any limitations on medical experts, so long as the calling party pays all the costs incurred in their discovery, and to limit the number of other experts a party may designate, identify, or call to testify in the action. HB 1906; CH. 251.

§ 8.01-582 amended. General receivers; use of social security numbers, etc., on affidavits. Deletes requirement that beneficiary's social security number and birthdate and the proposed dates of final and periodic disbursements routinely be

included in the court order and provides instead that the general receiver file a sealed affidavit with this information. SB 815; CH. 97.

§§ **8.01-606, 26-4, 37.1-144, 58.1-1712, and 58.1-1714 amended. Fiduciary duties; probate tax.** Amends sections that pertain to the administration of small amounts of money (payment into court, fiduciary may qualify without security, surrender of incapacitated person's estate) to increase the dollar amount to \$15,000. Raises from \$10,000 to \$15,000 the value of an estate that is subject to probate tax. This bill is a recommendation of the Judicial Council. HB 1921; CH. 195.

§ **8.01-654.2.** See § 19.2-175; HB 1923.

§ **8.01-654.2.** See § 19.2-175; SB 1239.

§ **8.01-675.3.** See § 19.2-398; SB 1134.

TITLE 8.1. COMMERCIAL CODE - GENERAL PROVISIONS.

§§ **6.1-194.69, 6.1-194.136, 8.2-103, 8.2-202, 8.2A-103, 8.2A-501, 8.2A-518, 8.2A-519, 8.2A-527, 8.2A-528, 8.3A-103, 8.4-104, 8.4A-105, 8.4A-106, 8.4A-204, 8.5A-102, 8.5A-103, 8.6A-102, 8.7-102, 8.8A-102, 8.9A-102, 8.10-104, 15.2-4908, 15.2-6612, 55-70.1, 59.1-207.19, 59.1-352.2, 59.1-353, 59.1-481, 59.1-494, 59.1-501.2 amended; §§ 8.1-101 through 8.1-208, and 8.2-208 repealed. Uniform Commercial Code; general provisions.** Replaces current Title 8.1 of the Uniform Commercial Code with the revision approved by the National Conference of Commissioners on Uniform State Laws in 2001. The revisions are intended to update the law and are in recognition of changes in business practices, including the increased use of electronic media. The bill is recommended by the National Conference of Commissioners on Uniform State Laws. HB 1778; CH. 353.

TITLE 8.2. COMMERCIAL CODE - SALES.

§§ **8.2-103, 8.2-202, and 8.2-208.** See § 8.1-101; HB 1778.

TITLE 8.2A. COMMERCIAL CODE - LEASES.

§§ **8.2A-103, 8.2A-501, 8.2A-518, 8.2A-519, 8.2A-527, and 8.2A-528.** See § 8.1-101; HB 1778.

TITLE 8.3A. COMMERCIAL CODE - NEGOTIABLE INSTRUMENTS.

§ **8.3A-103.** See § 8.1-101; HB 1778.

§ **8.3A-602. Negotiable instruments; return of paid instruments.** Requires the holder of a negotiable instrument to return the instrument to its maker or his agent within 90 days following payment in full of the obligation. If the instrument is no longer in existence, the holder can satisfy this obligation by giving written confirmation to that effect within 90 days of the request. SB 999; CH. 342.

TITLE 8.4. COMMERCIAL CODE - BANK DEPOSITS AND COLLECTIONS.

§ **8.4-104.** See § 8.1-101; HB 1778.

TITLE 8.4A. COMMERCIAL CODE - FUNDS TRANSFERS.

§§ **8.4A-105, 8.4A-106, and 8.4A-204.** See 8.1-101; HB 1778.

TITLE 8.5A. COMMERCIAL CODE - LETTERS OF CREDIT

§§ **8.5A-102 and 8.5A-103.** See § 8.1-101; HB 1778.

TITLE 8.6A. COMMERCIAL CODE - BULK SALES

§ **8.6A-102.** See § 8.1-101; HB 1778.

TITLE 8.7. COMMERCIAL CODE - WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE.

§ **8.7-102.** See § 8.1-101; HB 1778.

**TITLE 8.8A. COMMERCIAL CODE -
INVESTMENT SECURITIES**

§ 8.8A-102. See § 8.1-101; HB 1778.

**TITLE 8.9A. COMMERCIAL CODE -
SECURED TRANSACTIONS**

§ 8.9A-102. See § 8.1-101; HB 1778.

**TITLE 8.10. COMMERCIAL CODE -
EFFECTIVE DATE - TRANSITIONAL
PROVISIONS.**

§ 8.10-104. See § 8.1-101; HB 1778.

**TITLE 9.1. COMMONWEALTH PUBLIC
SAFETY.**

§ 9.1-101 amended. **Virginia State Crime Commission.** Provides that the Commission is a criminal justice agency and is a recommendation of the Commission. HB 1952; CH. 934/ SB 1145; CH. 937.

§§ 9.1-101 and 9.1-113 amended. **Conservation officer defined as law-enforcement officer; training exemption.** Redefines "law-enforcement officer" to include a conservation officer of the Department of Conservation and Recreation and exempts such officers appointed prior to July 1, 2003, from minimum training standards for law-enforcement officers. Defining conservation officers as law-enforcement officers includes them in the capital murder statute and has other consequences throughout the Code. HB 2612; CH. 744.

§ 9.1-106 amended. **Criminal justice training academies; fees.** Allows fees collected to support regional criminal justice training academies to be used to support local criminal justice training academies where the locality does not participate in a regional academy and if the locality was operating a certified independent criminal justice academy as of January 1, 2003. The bill contains technical amendments. HB 2511; CH. 993/ SB 1345; CH 1028.

§§ 9.1-138 and 9.1-139 amended. **Private security services.** Redefines "armed security officer" as someone who (i) safeguards and protects persons and property or (ii) deters theft, loss, or concealment of any tangible or intangible personal

property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties. Redefines "unarmed security officer" as someone who performs the functions of observation, detection, reporting, or notification of appropriate authorities or their designated agents regarding persons or property on the premises he is contracted to protect, and who does not carry or have access to a firearm in the performance of his duties. Removes definition of "security officer." HB 1817; CH. 124.

§ 9.1-140 amended. **Requirement that accident reconstructionists also be licensed private investigators.** Provides that a person whose occupation is limited to the technical reconstruction of the cause of motor vehicle accidents, regardless of whether the information resulting from the investigation is to be used before a court, board, officer or investigative committee, and who is not otherwise a private investigator as defined in § 9.1-138, need not be a licensed private investigator. HB 2121; CH. 136.

§§ 9.1-143 and 9.1-150.1 through 9.1-150.4. See § 19.2-13; SB 1240.

§ 9.1-176.1 added. **Local probation officers.** Sets out the duties and responsibilities of local probation officers (e.g., supervise local-responsible adult offenders and ensure compliance with all orders of the court; conduct random drug and alcohol tests and facilitate placement in substance abuse programs), including those optional duties which may be provided if funds and resources are available. HB 2230; CH. 142.

§ 9.1-177.1. See § 19.2-299; HB 2500.

§ 9.1-202. See § 32.1-111.10; HB 1535.

§ 9.1-400 amended. **Line of Duty Act; chaplains.** Adds police chaplains to the list of people who are covered under the Line of Duty Act. HB 2486; CH. 37/SB 952; CH. 41.

§ 9.1-400 amended. **Line of Duty Act; definitions.** Extends coverage of the Line of Duty Act to (i) Department of Emergency Management hazardous materials officers and (ii) employees of the Department and employees of any county, city, or town performing emergency management or emergency services duties when those duties are related to a major disaster or emergency that has been or is later declared to exist under the authority of the Governor or a local emergency declared by a local governing body. SB 822; CH. 1005.

§§ 16.1-272, 18.2-472.1, 19.2-390, 19.2-390.1, 46.2-323, 53.1-116.1, and 53.1-160.1 amended; §§ 9.1-900 through 9.1-918 added; §§ 19.2-298.1 through 19.2-298.4 and 19.2-390.2 repealed. **Sex Offender and Crimes Against Minors Registry.** Moves current law provisions regarding the Registry into Title 9.1 (Commonwealth Public Safety) from Title 19.2 (Criminal Procedure). The bill breaks the Code provisions into shorter, more readable sections. The offenses for which registration is required and the registration requirements are not changed from current law. The bill states more explicitly than current law that July 1, 1994, is the trigger date for registration.

The bill adds a provision that registrants who are enrolled or employed by an institution of higher education must indicate the name of the institution on their registration form and that the State Police must notify the chief law-enforcement officer of the institution of the person's registration. The institution of higher education provision is a requirement that Virginia must comply with by October 1, 2003, in order to avoid a possible reduction in Byrne grant funds. SB 1332; CH. 584.

TITLE 9.1. MISCELLANEOUS - COMMONWEALTH PUBLIC SAFETY.

School safety personnel. Delays for one year, until September 15, 2004, the date upon which training and employment standards for persons employed as school security officers will be applicable. These standards were to be developed by the Department of Criminal Justice Services, in consultation with the Department of Education and the Virginia State Crime Commission, pursuant to HB 498 and SB 295 (Chapters 868 and 836 of the Acts of Assembly of 2002, respectively). HB 2671; CH. 617.

TITLE 10.1. CONSERVATION.

§§ 10.1-105, 10.1-106, 10.1-107, 10.1-111, 10.1-112, 10.1-113, 10.1-202, 10.1-705, 10.1-707, 10.1-709, and 28.2-1100 amended; §§ 10.1-218 through 10.1-225 repealed. **Department of Conservation and Recreation Board consolidation.** Creates special funds, reorganizes the Board of Conservation and Recreation as a policy board, and merges the Board on Conservation and Development of Public Beaches and the Virginia State Park Foundation into the Board of Conservation and Recreation. This bill is a recommendation by the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 2393; CH. 89/SB 914; CH. 79.

§§ 10.1-114, 10.1-201, 10.1-635, 10.1-649, 10.1-1127.1, 10.1-1402, 10.1-1432, and 10.1-1446. See § 25.1-100; SB 1007.

§ 10.1-418 amended. **Staunton State Scenic River.** Corrects the length of the Staunton State Scenic River from 40.5 river miles to 51.3 river miles. HB 1451; CH. 687.

§§ 10.1-400, 10.1-401, 10.1-402, 10.1-405, 10.1-406, and 10.1-409 through 10.1-418.1 amended; §§ 10.1-406.1 and 10.1-418.2 added. **Virginia Scenic River Board.** Creates the Virginia Scenic River Board, eliminates the Virginia Scenic River Advisory Boards, which shall have a broad geographical representation, corrects a mileage error related to the Staunton State Scenic River, codifies the St. Mary's River as a river seg-

ment worthy of designation, and requires Department of Conservation and Recreation to submit a report in 2009 evaluating the effectiveness of the new state board. HB 1627; CH. 240.

§§ 10.1-502 and 10.1-503 amended. **Virginia Soil and Water Conservation Board.** Reduces the total membership of the Board from 12 to 10 members, eliminates the ex officio voting members except for the Director of the Department of Conservation and Recreation, and adds two additional members appointed by the Governor from the Commonwealth at-large. HB 1875; CH. 128.

§ 10.1-531 amended. **Soil and Water Conservation District Boards.** Specifies that vacant soil and water conservation district director positions will not be considered in what constitutes a quorum for a district board to conduct business. HB 2631; CH. 616.

§ 10.1-549.1 added. **Virginia Envirothon Program.** Authorizes Soil and Water Conservation Districts to coordinate and implement the Virginia Envirothon natural resource conservation program for high school students. HB 1671; CH. 402.

§ 10.1-560 amended. **Erosion and Sediment Control Law.** Clarifies that shoreline erosion control projects involving land-disturbing activities in those tidal waters that are under the regulatory authority of local wetlands boards, the Virginia Marine Resources Commission, and the U.S. Army Corps of Engineers are not subject to the Virginia Erosion and Sediment Control Law. However, any land-disturbing activities outside this exempted area are subject to this law. HB 2314; CH. 423.

§ 10.1-563 amended. **Erosion and Sediment Control; requirements for plan approval.** Removes the requirement to provide the name of an individual holding a certificate of competence as a prerequisite for approval of erosion and sediment control land-disturbing activity plans. The bill requires instead that the name of such certificate holder must be provided to the plan-approving authority prior to actual engagement in land-disturbing activity shown on the approved site plan. If the name is not provided prior to engaging in the land-disturbing activity the plan's approval may be revoked and the person responsible for carrying out the plan would be subject to penalties under the Erosion and Sediment Control Law. HB 1459; CH. 966.

§§ 10.1-563 and 10.1-566 amended. **Erosion and sediment control law; certificate of competence.** Grants plan-approving authorities the option to waive the certificate of competence requirement for land-disturbing activity for agreements in lieu of a plan. Currently, all plan-approving authorities must require that the name of an individual, who holds a certificate of competence and who will be in charge of and responsible for carrying out the land-disturbing activity, be provided for both erosion and sediment control plans and agreements in lieu of a plan. An agreement in lieu of a plan is a contract between the plan-approving authority and the landowner used for ensuring proper implementation of

conservation measures during construction of a single-family residence. SB 913; CH. 827.

§ 10.1-1010 amended. Conservation easements; requirements to be a holder. Allows national organizations that have been in existence for at least five years, have an office in the Commonwealth, and are registered and in good standing with the State Corporation Commission to be sole holders of conservation easements if they also meet the other existing criteria. Currently, such entities can only co-hold conservation easements. Current law also requires a sole holder of a conservation easement to have had its principal office in the Commonwealth for at least five years. SB 1053; CH. 1014

§ 10.1-1018. See § 30-156; SB 1315.

§ 10.1-1181.2 amended. Silvicultural Activities; best management practices. Provides that a notice, special order, or emergency special order issued by the State Forester regarding the conduct of silvicultural activities shall remain in effect until the State Forester determines that the corrective measures specified therein have been implemented. HB 2434; CH. 812.

§ 10.1-1186.5 added. Creation of the Low Impact Development Assessment Task Force. Requires the Director of the Department of Environmental Quality to appoint a Low Impact Development Assessment Task Force. The 11-member task force shall operate as an entity within the Department. The task force shall (i) develop a certification process for low impact development techniques in achieving quantifiable pollution prevention or abatement results, (ii) develop such other guidance for local governments and the general public as necessary to promote a more complete understanding of the most effective use of low impact development techniques, (iii) recommend changes to existing statutes and regulations to facilitate the use of low impact development techniques, and (iv) develop a model ordinance for use by local governments. For purposes of this section, "low impact development" means a site-specific system of design and development techniques that can serve as an effective, low-cost alternative to existing stormwater and water quality control methods and that will reduce the creation of storm runoff and pollution and potentially reduce the need to treat or mitigate water pollution. The task force shall continue in existence until it has submitted its final report. HB 1953; CH. 738.

§ 10.1-1400 amended; § 10.1-1424.2 added. Trichloroethylene prohibited; penalty. Adds trichloroethylene (TCE) to the list of hazardous household chemicals identified by the Department of Environmental Quality and as of January 1, 2006, prohibits the sale or distribution of any household product containing TCE. The bill also prohibits the sale or distribution of products containing TCE as of July 1, 2004, if such products are used as adhesives in residential hardwood floor installation. Violations are Class 3 misdemeanors. HB 2789; CH. 620.

§ 10.1-1408.4 amended. Landfill siting. Allows Halifax County to site a landfill closer than five miles upgradient from a water source, if the Director of the Department of Environmental Quality determines that such distance would not be

detrimental to human health and the environment. Currently, only Mecklenburg has an exemption that allows it to construct a landfill closer than the statewide five-mile upgradient separation requirement. HB 1532; CH. 834.

§§ 10.1-1418.2, 10.1-1418.3, 10.1-1422.3, 58.1-641, and 58.1-642 amended; §§ 10.1-1418.4 and 10.1-1418.5 added.

Waste tire piles and tire recycling fee. Strengthens the ability of the Department of Environmental Quality (DEQ) to clean up the 339 remaining tire piles throughout the state. The civil and criminal liability provisions of the bill are conformed to the penalties of other environmental statutes. The bill authorizes the establishment of tire convenience centers, which are collection points for the temporary storage of tires. To be classified as a convenience center, the collection point cannot receive waste tires from collection vehicles that have collected waste from more than one real property owner. The bill exempts (i) Department of Motor Vehicle-licensed salvage yards that are holding fewer than 300 waste tires and (ii) convenience centers having up to 1,500 tires from having to obtain a permit from DEQ.

The bill also establishes a strict liability standard for damages incurred by neighboring property owners and other third parties when a tire pile burns. Strict liability would apply in the case of an unpermitted tire pile of more than 100 tires. Currently, strict liability applies when there are more than 50,000 tires. The strict liability would apply to the pile owner when he knows about the pile or if the property owner consented to the disposal of the tires on his property. The bill grants the agency the authority to enter property and remove a tire pile if the owner refuses an order to remove the tires. Under the legislation, the agency would be able to obtain a lien against the property for the amount expended from the Waste Tire Fund to clean up the tire pile. To expedite the cleanup of these tire piles, a three-year increase in the tire recycling fee from \$.50 per new tire sold to \$1.00 is proposed. The revenue generated by the increased fee is required to be used solely for the removal of tire piles. SB 965; CH. 101.

§ 10.1-1425.26 added. Cathode ray tube recycling program. Requires the Virginia Waste Management Board to adopt regulations to encourage cathode ray tube and electronics recycling. The bill also authorizes localities to prohibit the disposal of cathode ray tubes in any privately operated landfill within its jurisdiction, so long as the locality has implemented a recycling program that is capable of handling all cathode ray tubes generated within the jurisdiction. HB 2376; CH. 743.

§ 10.1-1454.1 amended; § 10.1-1454.2 repealed. Transporting wastes on state waters. Eliminates the stacking limitation for containers on barges and the prohibition on transporting waste on the Rappahannock, James, and York Rivers. This bill broadens the Board's authority to establish a waste barging fee to fund not only administration and enforcement costs, but to also fund activities for abating pollution caused by barging of waste, for improving water quality, or for other waste related purposes. This bill exempts from regulation recyclable con-

struction demolition debris being transported on state water directly to a processing facility. SB 1137; CH. 830.

§§ **10.1-1800 and 10.1-1801.1 amended; § 10.1-1801.2 repealed. Virginia Outdoors Foundation's regional open-space preservation advisory boards.** Abolishes the six regional open-space preservation advisory boards and requires a broad geographical representation for the members of the Virginia Outdoors Foundation board of trustees. Each advisory board evaluates grant applications from applicants proposing to convey easements located within its region; identifies applications that will provide the most significant open-space preservation benefits according to guidelines and timetables developed by the Foundation; and forwards these recommendations to the Foundation. The boards have not been active recently. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 2396; CH. 90/SB 766; CH. 78.

§ **10.1-2127 amended. Water quality reports.** Requires the Department of Conservation and Recreation to submit its report on the impacts of nonpoint source pollution on water quality to the Department of Environmental Quality for inclusion in Virginia's water quality report that is submitted to the U.S. Environmental Protection Agency. The report, at a minimum, has to include water quality data from the previous five years. HB 2236; CH. 741.

§ **10.1-2211 amended. Department of Historic Resources; disbursements for Confederate cemeteries and graves.** Adds the Trinity Lutheran Church Cemetery in Augusta County, which maintains 13 Confederate graves, to the list of those cemeteries receiving funds from the Department of Historic Resources for the care of such graves. HB 1419; CH. 585.

§§ **10.1-2600 through 10.1-2609 added. Invasive Species Council established.** Establishes the nine-member Invasive Species Council. The Council, which is composed of executive branch agency heads, and chaired by the Secretary of Natural Resources, is charged with providing state leadership regarding prevention and control of invasive species and preparation of an invasive species management plan. Invasive species are species that are not native to an ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. There is a 2006 sunset on the Council. HB 2436; CH. 433.

TITLE 10.1. MISCELLANEOUS - CONSERVATION.

Property conveyance. Authorizes the Department of Conservation and Recreation to convey approximately 15 acres in Fairfax County, adjacent to George Washington's gristmill, to the Mount Vernon Ladies' Association of the Union. The con-

veyed property must be open to the public or ownership will revert to the Department. SB 884; CH. 100.

TITLE 11. CONTRACTS.

§ **11-9.7.** See § 6.1-332.1; HB 2648.

TITLE 12.1. STATE CORPORATION COMMISSION.

§ **12.1-43.** See § 13.1-1204; SB 855.

TITLE 13.1. CORPORATIONS.

§§ **6.1-112, 13.1-316, 13.1-544.1, 13.1-630, 13.1-762, 13.1-829, 13.1-924, 13.1-1012, 13.1-1104, 13.1-1214, and 50-73.2 amended. Names of business entities.** Requires that the name of any corporation, limited liability company, business trust, or limited partnership be distinguishable upon the records of the State Corporation Commission from the name of any of these types of business entities. HB 1753; CH. 592 (effective 10/1/04).

§§ **13.1-504, 13.1-507, 13.1-508, 13.1-509, 13.1-511, 13.1-514, and 13.1-523 amended; § 13.1-512 repealed. Virginia Securities Act.** Permits Virginia churches to offer securities to its members who live outside Virginia, provided the security is offered and sold only by its members who are Virginia residents. The bill also makes technical corrections to the Act, and repeals an obsolete provision of the Code requiring registration statements for certain securities, which is preempted by federal law. HB 1827; CH. 595.

§§ **13.1-543, 13.1-544.1, 13.1-544.2, 13.1-1102, and 38.2-231 amended; §§ 13.1-542.1 and 13.1-1101.1 added. Professional corporations; professional limited liability companies.** Provides that, unless otherwise prohibited by law or regulation, professional services may be rendered by either a professional corporation or a general business corporation. Parallel provisions are added to the Limited Liability Company Act. A provision corrects existing language that states that all shareholders of a foreign professional stock corporation be licensed to render the professional service in Virginia, because currently accounting, architecture, professional engineering, and land surveying can be rendered by domestic professional corporations with unlicensed shareholders. Other changes clarify that nurse practitioners may organize to the same extent as other professionals, by inserting language omitted from the 1999 legislation that authorized them to so organize. The bill has an emergency clause. SB 879; CH. 678 (effective 3/19/03).

§§ 13.1-546 and 13.1-1107 amended. **Professional services; independent contractors.** Permits professional corporations and limited liability companies to use independent contractors to render the professional services of such entities. HB 1863; CH. 786.

§§ 13.1-603, 13.1-610, 13.1-654, 13.1-655, 13.1-657, and 13.1-723 amended. **Virginia Stock Corporation Act.** Allows "householding" of notices to shareholders of public corporations, which means that a corporation may, with the consent of the affected shareholders, send a single notice of shareholders' meetings when there are multiple record shareholders at a single address. A public corporation is defined as having 300 or more shareholders. Other changes allow investment companies to avoid having annual meetings unless required by the corporation's documents or the Investment Company Act of 1940, and allow shareholders to participate in meetings via telephone if authorized in the articles of incorporation or bylaws. SB 860; CH. 728.

§§ 13.1-603, 13.1-722, 13.1-1001.1, 13.1-1002, 13.1-1003, 13.1-1012, 13.1-1067, 13.1-1070, 13.1-1072, 13.1-1073, 50-73.1, 50-73.2, 50-73.48:1, 50-73.48:3, 50-73.48:4, 50-73.84, 50-73.128, 50-73.130, and 50-73.144 amended; §§ 13.1-1010.4 and 13.1-1023.1 added. **Limited liability companies; business entities.** Incorporates conforming provisions into the Limited Liability Company Act and analogous provisions of other business entity statutes to enable those entities to merge with business trusts. Other provisions (i) clarify the authority of limited liability companies to convert into stock corporations and vice versa, (ii) provide that when the operating agreement of a limited liability company contains an agreement among members that restricts their ability to pledge or transfer their ownership interests, they will be given effect as a matter of freedom of contract notwithstanding contrary provisions of the Uniform Commercial Code, and (iii) clarify who signs State Corporation Commission filings for limited liability companies that are formed without members. SB 861; CH. 340 (effective-see bill).

§§ 13.1-635, 13.1-720, 13.1-722.1, 13.1-764, 13.1-834, 13.1-896, 13.1-926, 13.1-1016, 13.1-1072, 13.1-1221, 50-73.5, 50-73.48:3, and 50-73.135 amended. **Business entities; articles of merger.** Requires that articles of merger be signed by all parties to a merger of various business entities, including stock corporations, nonstock corporations, limited liability companies, and limited partnerships. The provision also applies to articles of share exchange. In the case of the merger of parent and subsidiary corporations, the articles need be executed only on behalf of the surviving corporation. The measure also establishes procedures for updating registered agent information when the agent changes its name or is the nonsurviving party to a merger. HB 1829; CH. 597 (effective-see bill).

§§ 13.1-722.10 and 13.1-722.12 amended. **Corporations and limited liability companies; entity conversions.** Requires that the articles of incorporation or articles of organization of the surviving entity of a conversion from a corporation to a limited liability company, or vice versa, be

included as a separate attachment to the plan of entity conversion. The articles of incorporation or articles of organization of the surviving entity are required to comply with the applicable provisions of the Virginia Stock Corporation Act or Virginia Limited Liability Company Act. HB 1830; CH. 598.

§§ 13.1-815, 13.1-815.1, and 13.1-816 amended; §§ 13.1-898.2 through 13.1-898.7 added. **Corporations; domestication and conversion; fees.** Establishes procedures by which (i) a domestic nonstock corporation that is not legally required to be a domestic corporation may domesticate as a foreign nonstock corporation and (ii) a foreign nonstock corporation may domesticate as a Virginia nonstock corporation. SB 880; CH. 374.

§ 13.1-904 amended. **Nonstock corporations; articles of dissolution.** Requires that articles of dissolution of a nonstock corporation filed with the State Corporation Commission set forth, if applicable, a statement that there are no members or no members with voting rights. In addition, the statement is required to recite the date of the meeting of the board of directors at which the dissolution was authorized and a statement of the fact that dissolution was authorized by the vote of a majority of the directors in office. HB 1828; CH. 596.

§§ 13.1-1003, 13.1-1005, and 13.1-1011.1 amended. **Limited liability companies; corrections and amendments.** Authorizes the organizer of a limited liability company to sign articles of amendment or correction. References to certificates of correction are changed to articles of correction. The manner in which a correction may be adopted is specified, and a requirement is added that the articles of correction include a statement of the manner of their adoption. SB 946; CH. 379.

§§ 13.1-1055 and 50-73.57 amended. **Foreign limited liability companies and limited partnerships.** Clarifies that the Secretary of State or other official with custody of records in the state or other jurisdiction of formation must authenticate the records of foreign limited liability companies and foreign limited partnerships. The amendments conform the authentication requirements with corresponding provisions of the Virginia Stock and Nonstock Corporation Acts. SB 851; CH. 370.

§§ 12.1-43, 13.1-1204, 13.1-1213, 13.1-1214, 13.1-1217, 13.1-1254, and 13.1-1261 amended; § 13.1-1260 repealed. **Business trusts.** Makes certain provisions of the Virginia Business Trust Act, which was enacted in 2002, consistent with analogous provisions of other business entity acts, and corrects several oversights in existing law. The measure (i) adds business trusts to the entities that are deemed to have received tax assessments mailed by the State Corporation Commission; (ii) establishes the fee for filing articles of restatement; (iii) specifies who has authority to correct the articles of trust and the method for their approval; (iv) conforms business trust name distinguishability requirements to those of other business entities; (v) allows for the cancellation of a certificate of a business trust that does not maintain a registered agent; and (vi) makes the provisions regarding mergers consistent with the parallel provisions for articles of merger of other business entities. The

Business Trust Act, and the amendments made by this measure, will become effective October 1, 2003. SB 855; CH. 373 (effective 10/1/03).

TITLE 15.2. COUNTIES, CITIES AND TOWNS.

§§ 15.2-408, 15.2-3604, and 15.2-3831. See § 24.2-101; SB 1107.

§ 15.2-634.1 added. **County manager form of government; background checks.** Provides that as a condition of employment, any applicant in such county who is offered or accepts employment at the county's water treatment facility after September 1, 2001, shall be required to submit to fingerprinting and to provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. If an applicant is denied employment because of the information appearing in his criminal history record, the county shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section. HB 2118; CH. 202 (effective 3/16/03).

§§ 15.2-709.1 and 27-6.2 amended; § 15.2-1505.1 added. **Background checks in localities.** Allows localities to require applicants for employment to submit to fingerprinting and to provide information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. If an applicant is denied employment because of information appearing in his criminal history record, the locality shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section. HB 2031; CH. 739.

§ 15.2-717. See § 58.1-3256; HB 2503.

§§ 15.2-729, 15.2-1902, 15.2-1904, 15.2-1905, 15.2-1906, 15.2-2109, 15.2-2115, 15.2-2140, 15.2-2146, 15.2-3221, 15.2-4518, 15.2-5114, 15.2-5343, 15.2-5367, 15.2-5425, 15.2-5807, 15.2-1901.1, and 15.2-1907 through 15.2-1916. See § 25.1-100; SB 1007.

§§ 15.2-901 and 15.2-904 amended. **Disposal of trash or cutting of weeds.** Allows localities to prescribe civil and criminal penalties for violations of ordinances related to the disposal of trash and the cutting of grass and weeds. The penalties may be up to \$50 for the first violation and up to \$200 for subsequent violations within one year of the first violation. Total civil penalties shall not exceed \$3,000 in a 12-month period. These penalties are in lieu of criminal penalties, except that lo-

calities may prescribe a Class 3 misdemeanor in the event of three civil assessments against the same defendant in a 24-month period. The bill adds these same provisions to the laws authorizing localities to restrict or remove inoperable motor vehicles on residential or commercial property. SB 1066; CH. 829.

§ 15.2-906 amended. **Repair of deteriorating buildings.** Allows localities to prescribe civil penalties, not to exceed a total of \$1,000, for violations of ordinances related to the repair of deteriorating buildings. HB 2362; CH. 207.

§ 15.2-915 amended. **Control of firearms by local ordinance.** Provides that no person may be prosecuted or convicted of a violation of any ordinance regulating the possession, carrying, or transportation of a firearm if he is (i) in possession of the firearm not in violation of any provision of Title 18.2 and he has a valid concealed handgun permit issued pursuant to § 18.2-308 or (ii) otherwise possessing, carrying, or transporting the firearm in a lawful manner. This provision was formerly limited only to transporting the weapon. The provisions applicable to a locality shall also apply to any authority or to a local governmental entity, including a department or agency, but not including any local or regional jail or juvenile detention facility. HB 1516; CH. 943.

§ 15.2-928 amended. **Disposal of trash or cutting of weeds.** Allows localities to regulate the times and placement of waste and waste containers set out for collection. The bill requires the locality to notify the owner of the waste or waste container to allow removal prior to imposing a civil penalty. HB 2476; CH. 518.

§ 15.2-953 amended. **Payments to volunteer rescue squads by localities.** Provides that a locality may make appropriations of money to volunteer fire companies or rescue squads in an amount sufficient to enroll any qualified member of such volunteer fire company or rescue squad in any program available within the locality intended to defray out-of-pocket expenses for emergency ambulance transportation. HB 1664; CH. 182.

§ 15.2-954.1 added. **Volunteer firefighter and emergency medical technician tuition reimbursement.** Provides that any locality may by ordinance establish and administer a tuition reimbursement program for eligible volunteer firefighters or emergency medical services personnel, or both, for the purposes of recruitment and retention. HB 2395; CH. 208.

§ 15.2-961 amended. **Conservation of trees during localities' development.** Amends current provisions that allow localities to provide by ordinance for the planting and replacement of trees during the development process. Such tree conservation ordinances shall include provisions for the reduction of tree canopy requirements or the granting of tree cover credit in consideration for the preservation of certain trees. Localities may designate certain types of undesirable trees that shall not be used to meet minimum tree canopy requirements. The bill also provides that the new law does not invalidate 10-year-minimum tree cover standards adopted by cities established before 1780, or 20 minimum tree cover replacement

standards adopted by localities after July 1, 1990. SB 1013; CH. 875.

§ 15.2-1104 amended; § 15.2-1201.2 added. Discount for early payment of taxes. Allows localities to establish discounts for the early payment of taxes. HB 2715; CH. 216.

§ 15.2-1104.1. See § 58.1-3; HB 2525/SB 743.

§ 15.2-1232.1. See § 54.1-4009; HB 2808.

§ 15.2-1308 amended. Advisory Committee for the Regional Competitiveness Act. Abolishes an advisory committee to the Department of Housing and Community Development known as the Advisory Committee for the Regional Competitiveness Act. The Committee was established in 1996 to develop recommendations for the distribution of funds to be used to encourage and reward regional strategic economic development planning and joint activities. The Committee has not been very active, and the program is not funded for the 2002-2004 biennium. This bill was recommended by the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 2429; CH. 77/SB 806; CH. 55.

§ 15.2-1408 amended. Activities of former local officers and employees. Adds the City of Virginia Beach (described by population) to those localities that may prohibit former officers and employees from providing personal and substantial assistance for remuneration of any kind to any party, in connection with any proceeding, application, case, contract, or other particular matter involving the City or an agency thereof, if that matter is one in which the former officer or employee participated personally and substantially as a city officer or employee through decision, approval, or recommendation. HB 1788; CH. 945.

§ 15.2-1433 amended. Local codification of ordinances. Provides that at least one copy, rather than three copies, of any codification or recodification, and at least one copy, rather than three copies, of every supplement thereto shall be kept in the office of the clerk of the governing body and shall be available for public inspection during normal business hours. HB 2058; CH. 200.

§ 15.2-1503.1 added. Background checks required for certain local employees or licensees. Provides that certain localities shall require any (i) applicant who is offered or accepts employment with the locality or (ii) prospective licensee for any categories of license designated by ordinance to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's or licensee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant or licensee. Such applicant or licensee shall pay the cost of the fingerprinting or a criminal records check or both. The Central Criminal Records Exchange, upon receipt of an applicant's or licensee's record or notification that no record exists, shall make a report to the locality. If an applicant is de-

nied employment or a licensee is denied a license because of the information appearing in his criminal history record, the locality shall notify the applicant or licensee that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section. HB 2373; CH. 742.

§ 15.2-1508 amended. Local employee bonuses. Grants localities greater flexibility in the awarding of bonuses. HB 2270; CH. 204.

§ 15.2-1517 amended. Local government health insurance programs; volunteer fire and rescue company members. Authorizes any locality that provides a group health insurance program for its officers and employees to allow eligible members of approved volunteer fire or rescue companies, as determined by the locality, to participate in such program, subject to the eligibility criteria established by the locality. A participating volunteer shall pay the full cost of his participation in the health insurance program. HB 1885; CH. 409.

§ 15.2-1613.1 amended. Jail processing fee. Authorizes the collection of jail processing costs incurred by a regional jail pursuant to a local ordinance. The General Assembly authorized these fees in 2002 applicable to local sheriffs' offices to defray the costs of processing arrested persons. SB 696; CH. 623.

§ 15.2-1713.1 added. Local "Crime Stoppers" programs. Grants authority for local "Crime Stoppers" programs. Such programs are defined as a private, nonprofit Virginia corporation governed by a civilian volunteer board of directors that is operated on a local or statewide level that (i) offers anonymity to persons providing information to the organization, (ii) accepts and expends donations for cash rewards to persons who report to the organization information about alleged criminal activity and that the organization forwards to the appropriate law-enforcement agency and (iii) is established as a cooperative alliance between the news media, the community, and law-enforcement officials. HB 1752; CH. 754/ SB 1032; CH. 760.

§ 15.2-1716 amended. Expenses incurred in responding to DUI incident. Expands current provisions allowing reimbursement of expenses incurred in responding to DUI incidents by adding incidents related to other serious traffic offenses such as reckless driving and driving on a suspended license. HB 2505; CH. 796.

§ 15.2-1737. See § 19.2-13; SB 1240.

§ 15.2-1904 amended. Condemnation; reimbursement of property taxes. Directs localities in condemnation proceedings to reimburse owners of real property, or other person legally obligated to pay the real property taxes, for the pro rata portion of real property taxes paid for the period of time subsequent to the date of title vesting in the locality or the effective date of possession of such real property by the locality, whichever is earlier. SB 990; CH. 680.

§§ 15.2-2108.2 through 15.2-2108.17. See § 56-265.4:4;

SB 875.

§ 15.2-2110 amended. Mandatory connection to water and sewage systems in certain counties. Adds Wythe County to the list of counties that may require mandatory connection to their water and sewage systems by certain owners of property that may be served by such systems, but that may not charge a nonuser service charge. HB 2702; CH. 215.

§ 15.2-2110 amended. Mandatory connection to water and sewage systems in certain counties. Adds Bland County to the list of counties that may require mandatory connection to their water and sewage systems by owners of property that may be served by such systems and further provides that Bland County, in assuming the obligations of a public service authority, may assume such obligations under the same conditions as applicable to the public service authority. SB 1168; CH. 167.

§ 15.2-2114 amended. Regulation of stormwater. Allows localities to provide full or partial waivers of stormwater storm drainage and facilities fees to any person who develops, redevelops or retrofits outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading. Under current law, such waivers are available only to persons who have obtained permits from the Department of Environmental Quality (DEQ) for complete private maintenance of storm drainage and stormwater facilities. Such permits apply only to city and county stormwater systems serving more than 100,000 people, or to companies that have stormwater discharges entering streams directly from industrial facilities. This bill is intended to provide more flexibility to localities in encouraging development that reduces stormwater drainage in instances that are not currently subject to DEQ permitting requirements. SB 1193; CH. 390.

§ 15.2-2118 amended. Water and sewer charges. Adds the City of Roanoke to the list of localities that may by ordinance provide that taxes or charges imposed for water or sewers or use thereof within or outside the locality shall be a lien on the real estate served by such waterline or sewer. HB 1876; CH. 191.

§ 15.2-2159 amended. Fees for solid waste disposal. Restates a population bracket, originally intended to apply to Accomack County, based on 2000 census figures. The existing language authorizes certain counties to impose fees related to the disposal of solid waste. Accomack County is also granted additional authority related to charging and collecting the fee, such as fee prorating, late penalties, and discounts. HB 1992; CH. 48/SB 1075; CH. 25.

§ 15.2-2160. See § 56-265.4:4; HB 2721.

§ 15.2-2209 amended. Civil penalties for zoning violations. Raises the maximum civil penalty for second and subsequent violations of the zoning ordinance from \$150 to \$250. The civil penalty for an initial summons remains unchanged at \$100. Also, a series of specified violations arising from the same operative set of facts shall not result in civil penalties that exceed a total of \$5,000, rather than the current total of \$3,000. HB 1888; CH. 192.

§§ 15.2-2214 and 15.2-2309 amended. Meetings of the planning commission and board of zoning appeals. Provides that the planning commission and board of zoning appeals may by resolution fix the day to which any meeting shall be continued if weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required. This authority is similar to that which currently exists for local governing bodies. HB 1679; CH. 403.

§ 15.2-2223 amended. Comprehensive plan; affordable housing. Requires localities, as part of their comprehensive plan, to designate areas and implement measures for the construction, rehabilitation and maintenance of affordable housing, that is sufficient to meet the current and future needs of residents of all levels of income in the locality. HB 2406; CH. 811.

§ 15.2-2254 amended. Compliance with subdivision ordinance. Clarifies that in addition to fines of up to \$500 for each lot or parcel of land that is subdivided, transferred or sold in violation of certain provisions of the subdivision ordinance, the owner shall continue to be required to comply with all provisions of the subdivision ordinance. HB 1805; CH. 408.

§ 15.2-2259 amended. Plat approval. Requires the planning commission to make a good faith effort to identify all deficiencies in a plat that cause disapproval and identify all modifications or corrections as will permit approval of the plat. The local planning commission shall act on any previously disapproved plat within 45 days of resubmittal. A circuit court petition pursuant to this section shall be given first priority on the civil docket. HB 2509; CH. 716.

§ 15.2-2303.2 amended. Disclosure of proffered cash payments and expenditures by localities. Excludes localities with a population of 3,500 or less from certain reporting requirements related to cash proffers. Also, localities will be required to break down reported information by category. HB 2600; CH. 522.

§ 15.2-2307 amended. Replacement of manufactured housing. Amends the existing statute related to replacement of nonconforming manufactured housing to provide that either the landowner or the homeowner may remove such nonconforming home and replace it with another comparable manufactured home. In a mobile or manufactured home park, a single-section home may replace a single-section home, and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single or multi-section, that meets the current HUD manufactured housing code. HB 1821; CH. 189.

§ 15.2-2307 amended. Removal of abandoned nonconforming signs. Provides that a locality may order the removal of a

nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. HB 2473; CH. 53/ SB 820; CH. 21.

§ 15.2-2314 amended. Board of zoning appeals. Provides that in the case of an appeal from the board of zoning appeals to the circuit court, from an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, the decision of the board shall be presumed correct. The appealing party may rebut the presumption by proving by a preponderance of evidence that the board erred in its decision. Current case law provides that a decision of the board is presumed to be correct and can be reversed or modified only if the trial court determines that the board applied erroneous principles of law or was plainly wrong and in violation of the purposes and intent of the zoning ordinance. The bill further provides that in the case of an appeal from any decision of the board that denied an application for a variance or an application for a special exception, there shall be a presumption that the decision of the board is correct, but the petitioner may rebut that presumption by showing to the satisfaction of the court that the board applied erroneous principles of law, or where the discretion of the board is involved, that the decision was plainly wrong and in violation of the purpose and intent of the zoning ordinance. SB 967; CH. 568.

§ 15.2-2403 amended. Service districts. Expands the power of service districts to include the control of insects that may carry diseases that are dangerous to humans. HB 1881; CH. 493.

§ 15.2-2413 amended. Installment payment of assessments for local improvements; interest. Clarifies that such interest rate shall not exceed the index of average yield on U.S. Treasury securities adjusted to a constant maturity of one year. HB 1974; CH. 198.

§§ 15.2-2650 and 15.2-2651 amended. Public Finance Act; applicability. Provides that the provisions of the Public Finance Act apply to all suits, actions and proceedings involving the validity of bonds of any "instrumentality" of localities. The Act currently applies to any agency or instrumentality of the Commonwealth, but not of localities. SB 982; CH. 570.

§ 15.2-2656 amended. Public Finance Act; appeals from bond validation proceedings. Allows appeals from circuit court bond validation proceedings if a notice of appeal is filed with the circuit court within 15 days of the final judgment and if a petition is filed with the Supreme Court of Virginia within 30 days of the final judgment. Currently, a petition must be filed with the Court within 15 days of the final judgment. The bill shifts the burden from appellant to the clerk of the circuit court for transmitting a certified copy of the circuit court record to the Supreme Court of Virginia within 30 days of the final judgment when a notice of appeal is properly filed. The bill clarifies that failure of the clerk to do so will not affect the

jurisdiction of the Supreme Court to hear the appeal. SB 981; CH. 679.

§ 15.2-2704 amended. Local government group self-insurance pools. Corrects a reference to State Corporation Commission regulations regarding the investment of a group self-insurance pool's assets. The existing reference to regulations for group self-insurance workers' compensation plans is outdated, as the Commission promulgated specific regulations concerning the investment of local government self-insurance pools in 1987. SB 850; CH. 566.

§§ 2.2-203, 15.2-2901, 15.2-3400, and 36-139 amended; § 36-132.1 added. Duties of the Commission on Local Government. Transfers the Commission on Local Government to the Department of Housing and Community Development and provides that the Director of the Department shall serve as the Executive Director of the Commission. Also, provisions related to certain voluntary agreements between localities are amended to clarify that such agreements shall be binding on future local governing bodies. HB 1967; CH. 197.

§ 15.2-3232 amended. Notice of annexation. In addition to current advertisement requirements, provides that at least 10 days' written notice be given to the owner or agent of each parcel subject to a proposed annexation under an agreement defining annexation rights. HB 1375; CH. 173.

§ 15.2-3400 amended. Voluntary settlements among local governments; acceptance of proffers. Allows certain localities to include provisions for the acceptance of proffered conditions on behalf of other localities pursuant to voluntary settlement agreements. HB 2694; CH. 444/SB 1295; CH. 583.

§ 15.2-4217.1 added; §§ 2.2-2644 through 2.2-2647 repealed. Specialized Transportation Council. Abolishes the Specialized Transportation Council and its Specialized Transportation Technical Advisory Committee. The purpose of the Council was to support the development of transportation services for elderly and disabled Virginians. The Council and the Disability Commission currently share several commonalities including staffing, chairmanship, and focus. The bill requires the Commission to make transportation issues a top priority on its agenda and transfers the administration of the Specialized Transportation Incentive Fund from the Council to the Commission. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities. SB 807; CH. 454.

§ 15.2-4903 amended. Economic development authorities. Adds the counties of Charles City, Greene, New Kent, and Patrick to those localities that may choose to refer to their industrial development authority as an economic development authority. HB 1738; CH. 350.

§§ 15.2-4903 and 15.2-4904 amended. Economic development authorities. Provides that the authority jointly created by the Town of South Boston and Halifax County may be named the Economic Development Authority of Halifax, Virginia, and

specifies how appointments to such authority are to be made. HB 2104; CH. 357.

§ 15.2-4903 amended. Economic development authorities. Adds New Kent County to those localities that may choose to refer to their industrial development authority as an economic development authority. SB 823; CH. 159.

§ 15.2-4903 amended. Economic development authorities. Adds Patrick County to those localities that may choose to refer to their industrial development authority as an economic development authority. SB 1018; CH. 343.

§ 15.2-4903 amended. Economic development authorities. Adds Greene County to those localities that may choose to refer to their industrial development authority as an economic development authority. SB 1047; CH. 345.

§ 15.2-4904 amended. Industrial development authorities; Russell County. Allows Russell County to appoint nine members to its industrial development authority, rather than seven, with two of the members coming from a town that has used its borrowing capacity to borrow two million dollars or more for industrial development. SB 1244; CH. 347.

§§ 15.2-4908 and 15.2-6612. See § 8.1-101; HB 1778.

§ 15.2-4908 amended. Industrial development authorities; bonds. Clarifies the role of the board of directors in approving the terms of bonds. SB 1291; CH. 683.

§§ 15.2-5152 and 15.2-5155 amended. Community development authorities. Declares that a community development authority is a public body and corporate and political subdivision of the Commonwealth. HB 2423; CH. 712.

§ 15.2-5153 amended. Community development authority. Reduces the minimum tract acreage size from 3000 to 250 acres for certain counties with a population of less than 50,000 that want to create a community development authority. HB 2642; CH. 443.

§§ 15.2-5431.1 through 15.2-5431.37 added. Virginia Wireless Service Authorities Act. Authorizes any locality to create a wireless service authority, which may provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56. The authority shall have many of the powers typically granted to authorities, including the issuance of revenue bonds. HB 2164; CH. 643.

§§ 15.2-6100 through 15.2-6110 repealed. Southside Virginia Development Authority. Abolishes the Southside Virginia Development Authority. The Authority was established in 1992 to enhance the economic development of the Southside region of the Commonwealth and to provide financial support for the purchase of real estate construction of buildings, the installation of utilities, and other improvements. The Authority is not currently funded, and the Board has not met since its organizational meeting. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agen-

cies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 765; CH. 158.

§ 15.2-6302 amended. Development of former federal areas. Allows an authority created from a former federal area to change the name of the authority from the name chosen by the Governor. HB 1851; CH. 246.

§§ 15.2-6400 and 15.2-6405 amended. Virginia Regional Industrial Facilities Act. Redefines "facility" to include any structure or park, including real estate and improvements for manufacturing, warehousing, distribution, office, or other industrial or commercial purposes. Currently, the Act limits "facility" to industrial parks used for these purposes. The bill also grants such authorities the power to enter into certain cooperative arrangements. SB 973; CH. 874.

§§ 15.2-6700 through 15.2-6704 added. Buchanan County Tourist Train Development Authority. Creates the Authority and its board, which will consist of two representatives from the governing body of Buchanan County, five citizen members, three of whom shall be from Buchanan County, and one legislator. The Authority's powers are similar to those that other authorities possess. The Authority may also cooperate with any private or governmental entity in the state of West Virginia, Kentucky, Tennessee, or North Carolina in the development of a tourist train. SB 1174; CH. 577.

TITLE 15.2. MISCELLANEOUS - COUNTIES, CITIES AND TOWNS.

Alexandria Port Commission. Repeals the Act of Assembly (as amended) that created the Alexandria Port Commission. The Commission does not exist and this Act of Assembly is obsolete. This legislation is a recommendation of the Virginia Code Commission. HB 1471; CH. 392.

Biennial election of county supervisors in Gloucester County; initial terms. Allows Gloucester County to stagger the terms of its at-large members of the board of supervisors. This bill contains an emergency clause. HB 2834; CH. 530 (effective 3/16/03).

Community centers in certain towns. Allows any town in which a private movie theater has not been in operation for three years to operate a community center that includes a movie theater for the exhibition of motion pictures produced expressly for commercial exhibition. HB 2707; CH. 524.

Lighting level regulation; Augusta County. Allows Augusta County to regulate the maximum upward exterior illumination levels of buildings and property zoned or used for commercial or business purposes. Such ordinance shall only apply to lighting installed after the effective date of the ordinance and shall not affect or be applied to agricultural or silvicultural operations, utility companies, facilities owned by the Department of Corrections, to lighting regulated by the Uniform Statewide

Building Code or to premise security lighting for certain multi-family residential or commercial office buildings. HB 2647; CH. 213.

Richmond-Henrico Metropolitan Area Commission. Repeals the Act of Assembly that established this Commission. The Commission was to have studied the feasibility of annexation of all or a part of the County of Henrico by the City of Richmond and also study the advantages and disadvantages of merging the County and the City. The Act of Assembly required that the Commission be appointed and meet no later than October 1, 1960. Since neither of these events has occurred, the Act of Assembly is obsolete. This legislation is a recommendation of the Virginia Code Commission. HB 1475; CH. 396.

Transferring the property, duties, rights, and contractual obligations of the trustees of any unincorporated area commonly referred to as a town to the board of supervisors of the county in which the area is located. Transfers the property, duties, rights, and contractual obligations of trustees to the board of supervisors of the county where the area is located, confirms that any such unincorporated area is part of the county in which it is located, and provides that the trustees shall be deemed to have completed their terms of service and be dissolved. HB 2807; CH. 747.

Treasurer; City of Galax. Abolishes the elected office of the treasurer at the conclusion of the current term, January 1, 2006. All duties of the office shall be assumed by the City's Director of Finance. City voters, in a May 2002 referendum, voted to abolish the office. HB 1808; CH. 188.

CHARTERS, AUTHORITIES

Blacksburg, Town. Provides that candidates for town council shall not be identified on the ballot by political affiliation. This is consistent with the town's current practice of nonpartisan council elections. HB 2356; CH. 76/SB 934; CH. 56.

Bluefield, Town. Provides that the town treasurer shall be appointed by the town manager rather than elected by the voters of the town, and shall serve as the town's director of finance. The bill also adds certain duties to the treasurer regarding land and personal property books and taxation. SB 1172; CH. 880.

Boykins, Town. Provides a new charter for the Town of Boykins and repeals the existing charter, enacted in 1884. The new charter contains powers typically granted to towns. HB 2619; CH. 718.

Bristol, City. Changes the composition of the utilities board and the youth services board. HB 1719; CH. 539/SB 796; CH. 546.

Chatham, Town. Provides for staggered terms for council members beginning with the 2004 election. HB 2279; CH. 675/SB 1236; CH. 656.

Chesapeake, City. Renames the department of personnel as the department of human resources and provides that the director of audit services shall be recommended for appointment by the city manager subject to ratification by a majority vote of the council. The director of audit services shall be subject to removal from office by a majority vote of the council. SB 775; CH. 868.

Damascus, Town. Changes references to the town sergeant to the chief of police and deletes references to a maximum salary for council members. HB 1731; CH. 696.

Dumfries, Town. Provides that candidates for town offices shall not be identified on the ballot by political affiliation. Other changes (i) clarify the method of filling council vacancies; (ii) provide that the seat of a council member who voluntarily misses three consecutive council meetings shall be deemed vacant; (iii) simplify the procedure for passing a town ordinance; (iv) delete definitions for "publish" and "posting"; (v) provide that the town manager shall have those powers and duties granted by the council; (vi) amend the listing of town departments; and (vii) correct outdated references. HB 1736; CH. 783.

Floyd, Town. Moves the election date for the mayor and town council from May to November. The current mayor and town council members will have their terms reduced by six months. HB 2068; CH. 658 (effective 3/19/03)/SB 736; CH. 668 (effective 3/19/03).

Gretna, Town. Provides for staggered terms for the town council. HB 2069; CH. 659/SB 1235; CH. 672.

La Crosse, Town. Provides a new charter for the Town of La Crosse, in Mecklenburg County, and repeals the current charter, passed in 1901. The new charter contains provisions typically found in town charters and does not grant unusual powers. SB 762; CH. 867.

Lexington, City. Amends Lexington's charter to prohibit candidates for city offices from being identified on the ballot by political affiliation. HB 2228; CH. 65/SB 1055; CH. 69.

Newport News, City. Corrects a problem with current charter provisions that prevents the payment of pension funds, deemed marital property, to the surviving spouse. HB 1665; CH. 183.

Norfolk, City. Provides that no candidate may seek election for more than one seat in an election. A sitting member of council who files for election to a council seat other than re-election to the member's own seat and so appears on the ballot shall be deemed to have resigned his seat effective July 1 of the year in which the election is held whether or not he is elected to the new seat sought. HB 2322; CH. 206.

Norton, City. Provides that no candidate for election to city council shall be identified on the ballot by political affiliation. SB 718; CH. 863.

Orange, Town. Updates the town boundary description. HB 1556; CH. 178.

Poquoson, City. Expands the duties of the city clerk to include the administering of the oath of office to certain local officials and to include the hiring of a deputy clerk and assistants. HB 2077; CH. 84/SB 1256; CH. 88.

Roanoke, County. Renames the social services board as the social services advisory board and expands the number of members of the board from three to at least seven. The bill also clarifies that the county administrator or his designee shall act as the local board of social services. SB 931; CH. 873.

Vinton, Town. Provides that the mayor or a councilman shall not be eligible during his term of office, or for one year thereafter, for any compensated town employment. HB 2044; CH. 199.

Virginia Beach, City. Updates the charter by replacing outdated Code of Virginia references, replacing "borough" with "district" and deleting provisions that are no longer applicable. SB 813; CH. 869.

Wise, Town. Provides that candidates for election to town council shall not be identified by political affiliation on the ballot. HB 2177; CH. 660/SB 715; CH. 666.

Bristol Parking Authority; repeal. Repeals the 1968 act that allows creation of such an authority. The authority is not in existence. This is a recommendation of the Virginia Code Commission. HB 1472; CH. 393.

Charlottesville-Albemarle Airport Authority. Replaces the present "charter" of the Charlottesville-Albemarle Airport Authority with a new one. SB 723; CH. 864.

Economic development authorities. Permits the Virginia Beach City Council to appoint 11 rather than seven commissioners to the economic development authority. SB 1189; CH. 882.

Martinsville Parking Authority. Repeals the 1968 act that allows creation of such an authority. The authority is not in existence. This is a recommendation of the Virginia Code Commission. HB 1473; CH. 394.

Metropolitan Washington Airports Authority. Provides that the Commonwealth agrees to a limited waiver of its sovereign immunity of no more than five million dollars so as to indemnify the Authority against claims resulting from the Commonwealth's use of Authority property on the "Dulles Corridor" on which transportation facilities are constructed, to the extent required in any agreement between the Virginia Department of Transportation and the Authority. SB 998; CH. 1012.

Peninsula Civic Recreation Center Authority. Repeals the 1960 act that allows creation of such an authority. The authority is not in existence. This is a recommendation of the Virginia Code Commission. HB 1474; CH. 395.

Pulaski and Wytheville Parking Authority; repeal. Repeals the 1968 act that allows creation of such an authority. The authority is not in existence. This is a recommendation of the Virginia Code Commission. HB 1479; CH. 398.

Southeastern Public Service Authority of Virginia. Amends the original act creating the Southeastern Public Service Authority of Virginia to add the County of Isle of Wight to the list of cities that are authorized to contract obligations over a period of more than one year to guarantee indebtedness of the Authority. Pursuant to Article VII, § 10(b) of the Constitution of Virginia, the County of Isle of Wight has elected to be treated as a city for purposes of Article VII, § 10(a) regarding the issuance of bonds. The bill also authorizes the Authority to indemnify and hold harmless purchasers of Authority-owned interests in property for certain liabilities when the Authority leases back such property. SB 904; CH. 872.

TITLE 16.1. COURTS NOT OF RECORD.

§ 16.1-69.35 amended. Court system; designation of circuit judge to sit in district court. Allows the Chief Justice of the Supreme Court to designate a circuit court judge, with the judge's consent, to sit in district court. The bill also removes an old reference to a single district court judge serving the courts of the Eastern Shore. SB 971; CH. 102.

§ 16.1-69.40:1 amended. Prepayable fines for traffic infractions. Allows fines for violating the maximum speed limits in certain residence districts of counties, cities and towns to be prepayable. SB 988; CH. 282.

§§ 16.1-69.48:1, 16.1-69.48:2, 17.1-275.1, 17.1-275.2, 17.1-275.5, 17.1-275.7, 17.1-275.8, and 53.1-131.1 amended. Court fees and costs. Implements amendments made by the 2002 Session of the General Assembly to the fixed-fee provisions for misdemeanors, traffic infractions, and other violations in circuit and district court. SB 1129; CH. 1039.

§ 16.1-69.48:1 amended. Fee for failure to appear. Raises from \$10 to \$20 the fee assessed when a guilty defendant fails to appear in a misdemeanor or traffic infraction case in district court. SB 1251; CH. 883.

§ 16.1-69.48:1.01. See Budget Bill; HB 1400.

§ 16.1-69.48:5 added. Fees for services of juvenile and domestic relations district court judges and clerks in certain civil cases. Establishes a \$25 filing fee for child custody or visitation cases in the juvenile and domestic relations district court. HB 2444; CH. 906.

§ 16.1-69.55 amended. Retention of district court records. Allows the destruction of documents in civil proceedings in which no service of process is had 24 months after the last return date. HB 1842; CH. 126.

§§ 16.1-88.03 and 55-246.1 amended. General district court pleadings; limited liability companies. Authorizes a limited liability company, limited partnership, professional corporation, business trust and other legal entities to prepare, execute, file, and have served on other parties certain pleadings in general district court proceedings without the intervention of an

attorney. The bill also allows a resident manager employed by such a legal entity licensed as a real estate firm to obtain a judgment for possession, rent or damages. Partnerships and corporations currently have the authority extended to other legal entities by this bill. HB 2624; CH. 665/SB 732; CH. 667.

§ 16.1-99. See § 8.01-514; HB 1458.

§ 16.1-228 amended. **Juvenile and domestic relations court expanded jurisdiction.** Expands the definition of "child in need of services" to mean a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or any other person. This legislation is in response to the beating of a three year-old girl by two boys, ages five and six, in Loudoun County. HB 1520; CH. 538/ SB 991; CH. 547.

§ 16.1-228 amended. **Juvenile court; definition of family and household member.** Adds half-siblings to the definition of family or household member under the juvenile and domestic relations district court. HB 1533; CH. 835.

§§ 16.1-233, 16.1-235, and 16.1-236 amended; § 16.1-236.1 added. **Court services units; personnel.** Clarifies the authority of the (i) Director of Juvenile Justice to hire, transfer, and terminate probation officers and supervisors in state-operated court services units, and (ii) juvenile and domestic relations district court judges to appoint court services unit directors. The bill also clarifies the Director's control over state-operated units and the localities' control of locally operated units. HB 2518; CH. 648.

§ 16.1-241 amended. **Parental consent for abortion.** Requires a physician to obtain parental consent prior to performing an abortion on an unemancipated minor. This provision sets out the procedures required for the minor to seek judicial authorization for an abortion if the minor does not elect to seek consent of an authorized person. The bill requires the court on a petition seeking judicial authorization to find the minor to be capable of emancipation when deciding whether the minor is "mature" or not. If authorization for the abortion is given by the judge, the physician or his agent will be required to notify the parent; however, no notice will be required if the judge finds that the notice would not be in the best interest of the minor. Further, no consent or judicial bypass decision will be required if the minor "declares that she is abused or neglected" and "the attending physician has reason to suspect that the minor may be an abused or neglected child . . . and reports the suspected abuse or neglect." Consent is defined as the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician. Under current law, the parents of the minor must be notified of the abortion, but do not have to give consent. HB 1402; CH. 960/SB 1124; CH. 962

§ 16.1-241. See § 63.2-1215; SB 1298.

§ 16.1-244 amended. **Jurisdiction of juvenile court; when divested.** Clarifies that the juvenile and domestic relations dis-

trict court is divested of jurisdiction over the custody, guardianship, visitation or support when such issues are raised in the circuit court in a pendente lite hearing and where the circuit court is set to hear the issue on a date certain including on a motions docket. HB 1915; CH. 129.

§ 16.1-248.1 amended. **Predispositional detention of juveniles.** Makes it clear that a juvenile and domestic relations district court judge has the authority to order a juvenile into detention prior to final disposition even if the juvenile was not ordered into detention when first taken into custody. This bill does not change the statutory criteria that must be met before detention is ordered. An August 2002 Attorney General Opinion stated that a judge has no authority to temporarily detain a juvenile after an adjudication hearing but pending the disposition hearing when the juvenile was not originally taken into custody and detained. HB 2282; CH. 851/SB 1060; CH. 104.

§ 32.1-127.1:03 amended; § 16.1-248.3 added. **Juvenile medical records.** Entitles a secure facility (most often a detention home) to obtain the medical records of a juvenile in its care directly from a health care provider if consent for release is refused or not readily obtainable from the parent or guardian. The records may be obtained only if necessary (i) for the provision of health care to the juvenile, (ii) to protect the health and safety of the juvenile or other residents or staff of the facility or (iii) to maintain the security and safety of the facility. Rediscovery of the records by facility staff is prohibited. This bill is a recommendation of the Youth Commission. HB 2155; CH. 983.

§ 16.1-250.1 amended. **Notice of juvenile detention review hearing.** Provides that notice of a juvenile detention review hearing shall be given to the probation and parole department of the local or state court services unit, as well as to the currently authorized parent, guardian, legal custodian or other person standing in loco parentis, the child's attorney, the child if 12 years of age or over, and to the attorney for the Commonwealth. HB 2012; CH. 133.

§§ 16.1-251 and 63.2-1517 amended. **Emergency removal of abused and neglected children.** Requires a petitioner who fails to obtain an emergency removal order after four hours have elapsed following taking custody of the child to state the reasons therefor. The bill also states that the parents or guardians shall be given notice as soon as practicable and every effort shall be made to provide such notice in person. HB 2188; CH. 508.

§§ 16.1-253.2 and 18.2-60.4 amended. **Violation of protective orders.** Provides that when a defendant is convicted of violating a domestic or stalking protective order, the court must issue a new protective order for a specified period not to exceed two years from the date of conviction. SB 834; CH. 219.

§ 16.1-260 amended. **Truancy court.** Permits an intake officer to defer filing a truancy complaint petition for 90 days and to proceed informally by developing a truancy plan, provided the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to

comply with compulsory school attendance. The juvenile and relevant adult must agree in writing to the development of a truancy plan and may participate in the plan. The intake officer may refer the juvenile to an appropriate public agency for development of a plan employing an interagency approach. If the juvenile does not complete the plan successfully within the 90-day period, the intake officer shall file the petition. HB 1559; CH. 587.

§ 16.1-266 amended. Appointment of lawyers in juvenile court. Provides that when the juvenile and domestic relations district court deems it necessary, the court may appoint both counsel and a guardian ad litem for a party. This bill reflects what historically has been the practice in juvenile courts. An Attorney General's Opinion issued on July 16, 2002, interpreted the statute as allowing a party a right to representation either by a guardian ad litem or by counsel in particular categories of cases and as not conferring upon the court the discretionary authority to appoint either counsel or guardian ad litem in addition to the specified type of appointment. This bill makes it clear that the court has the discretionary authority to appoint both when necessary. The bill is a recommendation of the Committee on District Courts. SB 825; CH. 98.

§ 16.1-269.6 amended. Trial of juveniles as adults. Provides that an order terminating the juvenile court's jurisdiction after a juvenile has been transferred and tried as an adult shall not apply to any allegations of criminal conduct that would properly be within the jurisdiction of the juvenile and domestic relations district court if the defendant were an adult. Currently, upon conviction of the juvenile following transfer or certification and trial as an adult, the circuit court terminates the juvenile court's jurisdiction over that juvenile with respect to any future criminal acts alleged to have been committed by such juvenile and with respect to any pending allegations of delinquency that have not been disposed of by the juvenile court at the time of the criminal conviction. HB 2274; CH. 144.

§ 16.1-272. See § 9.1-900; SB 1332.

§ 16.1-278.9 amended. Juvenile DUI and refusal. Gives the court the discretion to discharge and dismiss DUI and refusal proceedings against a juvenile. Under current law when a juvenile is found to have committed a violation of the DUI statute or to have unlawfully refused a blood test the court must dismiss the proceedings when the license has been restored and the terms and conditions have been met unless the violation resulted in the injury or death of any person. HB 1527; CH. 118.

§§ 16.1-278.15 and 20-103 amended. Parent education; custody, visitation, and support cases. Eliminates the 2003 sunset and modifies the existing requirements that parents attend educational seminars addressing the effects of separation or divorce on children, parenting responsibilities, etc. Under the bill the parties to any petition for custody, visitation or support shall show proof that they have attended within 12 months before their first court appearance or shall attend within 45 days thereafter an educational seminar that is at least four hours in length. Once a party has completed one educational program, the required completion of additional programs is at

the court's discretion. Such programs are to be completed, where possible, prior to participating in mediation or alternative dispute resolution, and the court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Parties include natural or adoptive parents, or any person with a legitimate interest as defined in § 20-124.1. The fee for such programs shall be based on ability to pay, but shall in no case exceed \$50. HB 2128; CH. 31/SB 1097; CH. 45.

§§ 16.1-278.16, 34-28.1, 63.2-1902, 63.2-1927, and 63.2-1929 amended; § 63.2-1940.1 added. Child support and enforcement; lien on personal injury and wrongful death awards; publication of delinquent parent list. Clarifies that a court may issue a show cause order or *habeas corpus* for failure to pay child or spousal support where personal or substitute service has been obtained. A lien on personal injury and wrongful death awards is created for child and spousal support and given priority over other liens except those established on behalf of (i) health care providers who treated the injured person; (ii) the Commonwealth; (iii) the attorney representing the injured person; and (iv) a health insurance provider (statutory right of subrogation). The bill requires the Division of Child Support Enforcement to publish a list of the most delinquent parents, as determined by the Commissioner, and gives the Commissioner of the Department of Social Services access to information held by criminal justice agencies for use in locating delinquent parents. HB 2405; CH. 929/SB 1206; CH. 942.

§§ 16.1-286 and 16.1-290 amended. Support payments to Department of Juvenile Justice. Provides that the Department of Juvenile Justice can apply to the Department of Social Services for child support when a juvenile is committed to its custody. The amount of child support a parent or other responsible party has to pay would be determined in accordance with the child support guideline. Under current law, the juvenile court must conduct an investigation and separate hearing to determine how much the responsible person should pay, and then must order such payment. The bill's purpose is to streamline the system by permitting payments to be established and obtained through the existing system afforded by the Division of Child Support Enforcement in the Department of Social Services, rather than on a case-by-case court adjudication. The bill also eliminates the roster now required to track children's whereabouts. SB 1246; CH. 579.

§ 16.1-299.1 amended. DNA samples. Clarifies that DNA samples of juveniles charged with felonies can be taken from blood, saliva or tissue. HB 2431; CH. 607.

§ 16.1-299.1. See § 19.2-310.2:1; HB 2661.

§§ 16.1-300 and 16.1-305 amended. Access to juvenile's court records. Grants greater access to otherwise confidential records of the juvenile court and the Department of Juvenile Justice, including electronic access, to pretrial services officers and community-based probation officers for the purpose of preparing pretrial investigations, risk assessment instruments and post-sentence investigation reports. HB 2231; CH. 143.

§ 16.1-300 amended. Confidentiality of Department of Juvenile Justice records. Provides that a person who has reached the age of majority and requests his Department of Juvenile Justice records has access to those records even if he was not a ward of the Department. The bill also expands the Department's authority to withhold information contained in its records from inspection by the child's parent or guardian when Department staff determine that disclosure would be detrimental to a third party. Currently, the Department is able to withhold these records only when the disclosure would be detrimental to the child. SB 1078; CH. 108.

§§ 16.1-301, 16.1-305.1, 16.1-305.2, 16.1-309, 22.1-254, 22.1-277, 22.1-277.2:1, and 22.1-288.2 amended. Juvenile criminal information; schools. Rewrites provisions regarding the notification to a school division superintendent or school principal of criminal involvement of students. Current law requires division superintendents be notified when a petition is filed for certain crimes, but there is no follow-up as to the disposition of the charges unless there is a conviction. This bill requires notification when the juvenile is found not guilty or the charges are dismissed, withdrawn or reduced. This bill is a recommendation of the Youth Commission. HB 1572; CH. 119.

§ 16.1-319. See § 25.1-100; SB 1007.

TITLE 17.1. COURTS OF RECORD.

§ 17.1-227. See § 18.2-186.3; HB 2175.

§ 17.1-227 amended. Circuit court clerks; recordation of documents. Allows the clerk to refuse to file any instrument that includes a grantor's, grantee's or trustee's social security number. SB 714; CH. 862.

§ 17.1-227. See § 18.2-186.3; SB 979.

§§ 17.1-255, 17.1-256, and 17.1-258 amended; § 17.1-258.1 repealed. Electronic filing of court documents. Expands the provisions for recording documents electronically to anyone who has entered into such an agreement with the court clerk. The bill makes technical changes to refer to the Uniform Electronic Transactions Act and the Rules of the Supreme Court of Virginia regarding electronic filing and electronic signatures. The bill makes permanent these provisions by repealing the sunset. HB 1845; CH. 127.

§§ 17.1-275.1, 17.1-275.2, 17.1-275.5, 17.1-275.7, and 17.1-275.8. See § 16.1-69.48:1; SB 1129.

§ 17.1-275.5 amended. Fees for driving under the influence conviction. Deletes reference to blood withdrawal fees. HB 2764; CH. 1001/SB 1258; CH. 1022.

§ 17.1-275.10. See Budget Bill; HB 1400.

§ 17.1-275.11. See Budget Bill; HB 1400.

§ 17.1-279. See § 2.2-106; HB 1926/SB 1247.

§ 17.1-279 amended. Remote access to land records. Requires remote access to land records to be by paid subscription service through circuit court clerk's offices or designated application service providers. HB 2294; CH. 205.

§ 17.1-279 amended. Fees collected by circuit court clerks; information technology fee. Extends the sunset on the collection of the Technology Trust Fund Fee from July 1, 2004, to July 1, 2008. SB 740; CH. 865.

§ 17.1-318. See § 8.01-3; SB 856.

§ 17.1-319 amended. Supreme Court; distribution of reports. Authorizes the Court to distribute the published reports of the decisions of the Supreme Court and the Court of Appeals either in print or in electronic format. HB 2226; CH. 141.

§ 17.1-803 amended. Criminal sentencing commission; modifications to discretionary sentencing guidelines. Imports into § 17.1-803 the requirement from § 17.1-806 that the Commission's annual report shall include any modifications to the discretionary sentencing guidelines that the Commission has adopted, and requires identification of the reasons supporting the modifications. HB 2179; CH. 139.

TITLE 18.2. CRIMES AND OFFENSES GENERALLY.

§ 18.2-10. See § 19.2-175; HB 1923.

§ 18.2-10. See § 19.2-175; SB 1239.

§§ 18.2-23 and 18.2-105.2 amended; § 18.2-108.01 added. Larceny; penalties. Provides that conspiracy to commit larceny where the aggregate value of the goods is more than \$200 is punishable by confinement in a state correctional facility for not less than one year nor more than 20 years. The willful concealment of merchandise is prima facie evidence of intent to convert and defraud the owner of his property. The commission of larceny of property with a value of \$200 or more with the intent to sell or distribute the property is punishable by confinement for not less than two years and not more than 20. The knowing resale or attempted resale of stolen merchandise with an aggregate value of \$200 or more is punishable as a Class 5 felony. The penalty for manufacturing, distributing or possessing a laminated bag or other shoplifting device is increased from a Class 3 to a Class 1 misdemeanor. SB 1138; CH. 831.

§ 18.2-49.1 amended. Violation of court order regarding custody and visitation; penalty. Modifies statute that makes it a Class 6 felony to withhold a child outside the Commonwealth in violation of a custody or visitation order by adding the child's parents or other legal guardian to the class of people who would have to be protected. Currently the protected individual is the custodial parent. HB 2440; CH. 261.

§ 18.2-56 amended. Hazing. Defines hazing to mean recklessly or intentionally endangering the health or safety of or inflicting bodily injury on a student in connection with or for the purpose of initiation, admission into or affiliation with, or as a condition for continued membership in a club, organization, association, fraternity, sorority, or student body, whether or not the victim student voluntarily participated in the activity. The bill eliminates the references to "otherwise mistreating" in favor of the single term "hazing" and substitutes the policies and procedures used by the institution for the former sole remedy of expulsion. HB 1617; CH. 62/SB 864; CH. 67.

§ 18.2-57.3 amended. First domestic assault; deferral and probation. Makes discretionary with the court, where the court is deferring proceedings, the provisions for evaluating and ordering participation in an education or treatment program for persons charged with a first domestic assault. The bill also provides that the term of probation is two years from the date the court makes findings of facts that would support a finding of guilt. Under current law, probation runs for a two-year period following completion of local probation supervision, and evaluation and participation in an education or treatment program is mandatory where the court defers findings. HB 2275; CH. 33/ SB 826; CH. 38.

§ 18.2-60.4. See § 16.1-253.2; SB 834.

§ 32.1-249 amended; § 18.2-71.1 added; § 18.2-74.2 repealed. Partial birth infanticide. Defines "partial birth infanticide" as any deliberate act that (i) is intended to kill a human infant who has been born alive, but who has not been completely extracted or expelled from its mother, and that (ii) does kill such infant, regardless of whether death occurs before or after extraction or expulsion from its mother has been completed. The term "partial birth infanticide" will not include (a) the suction curettage abortion procedure, (b) the suction aspiration abortion procedure, (c) the dilation and evacuation abortion procedure involving dismemberment of the fetus prior to removal from the body of the mother, or (d) completing delivery of a living human infant and severing the umbilical cord of any infant who has been completely delivered. "Human infant who has been born alive" is defined as a product of human conception that has been completely or substantially expelled or extracted from its mother, regardless of the duration of pregnancy, which after such expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. "Substantially expelled or extracted from its mother" is defined as, in the case of a headfirst presentation, the infant's entire head is outside the body of the mother, or, in the case of breech presentation, any part of the infant's trunk past the navel is outside the body of the mother. The bill punishes the act of "partial birth infanticide" as a Class 4 felony. This provision will not prohibit the use by a physician of any procedure that, in reasonable medical judgment, is necessary to prevent the death of the mother, so long as the physician takes every medically reasonable step, consistent with such procedure, to preserve the life and health of the in-

fant. A procedure will not be deemed necessary to prevent the death of the mother if completing the delivery of the living infant would prevent the death of the mother. The mother cannot be prosecuted for any criminal offense based on the performance of any act or procedure by a physician in violation of this section. This provision also amends vital statistics law to modify the definition of "live birth" to include substantial expulsion or extraction of the product of human conception from its mother and to add a definition of "substantial expulsion or extraction." A second enactment clause repeals the partial birth abortion provision. HB 1541; CH. 961/SB 1205; CH. 963

§ 18.2-76 amended. Information to be provided prior to abortion; adoption. Clarifies that the written materials required to be offered for review as part of the basic information for informed written consent for abortion must be provided "in a respectful and understandable manner, without prejudice" and must be intended to give the woman the opportunity to make an informed choice and that the information on services will characterize adoption as a positive alternative and will include information on counseling services, benefits, financial assistance, medical care and contact persons or groups. HB 1833; CH. 784.

§ 18.2-111 amended. Embezzlement and larceny the same. Provides that proof of embezzlement shall be sufficient to sustain the charge of larceny and that any person convicted of embezzlement shall be deemed guilty of larceny and may be indicted as for larceny, and upon conviction shall be punished as for larceny. This bill returns to and replaces some of the language appearing in the pre-1994 version of this section to clarify that if embezzlement is proven, a charge and conviction for larceny are sustained. Language in the pre-1994 version requiring the Commonwealth to elect which statute to proceed under is not replaced. This bill addresses the decision in *Bruhn V. Commonwealth*, 35 Va. App. 339, 544 S.E.2d 895 (Ct. App. 2001), wherein neither a conviction for embezzlement nor larceny was found when the defendant was charged with larceny and shown to have committed embezzlement. HB 1454; CH. 733.

§ 18.2-113 amended. Fraudulent account entries. Adds corporations to the list of entities for which it is a Class 4 felony for an officer or clerk to make, alter or omit to make an entry in an account kept in or by such entity with the intent of concealing the true state of the account or to defraud the entity or to enable or assist any person to obtain money to which the person is not entitled. The bill also replaces the words "banks and savings institutions" with "financial institutions." HB 2109; CH. 740.

§ 18.2-130 amended. Crimes; peeping. Makes it unlawful for a landlord, without just cause, to enter upon property leased or rented to a tenant and secretly or furtively peep, spy or attempt to peep or spy into or through a window, door or other aperture of any building, structure, or other enclosure under circumstances that would violate the occupant's reasonable expectation of privacy. The bill provides a "just cause" excep-

tion to peeping by a landlord. HB 1594; CH. 81/SB 1210; CH. 87.

§§ **18.2-152.2, 18.2-152.3, 18.2-152.4, 18.2-152.6, 18.2-152.7, and 18.2-152.12 amended; §§ 18.2-152.3:1, 18.2-152.16, and 18.2-376.1 added. Computer crimes; enhanced penalties; forfeiture; etc.** Provides that certain obscenity violations are, when accomplished with a computer, subject to separate and distinct punishment. Adds enhancements for punishment of computer fraud based on volume of e-mail and revenue generated. Raises penalty for computer trespass. Raises penalty for theft of computer services based on value of services. Establishes an alternate method for calculating statutory civil damages for a person who is injured by reason of any violation of the Computer Crimes Act, based on the number of complaints, degree of culpability, amount of economic gain, and prior history. The bill also adds a seizure and forfeiture provision allowing for forfeiture of all proceeds and equipment received from violations of the Computer Crimes Act. HB 2290; CH. 987/SB 1139; CH. 1016

§ **18.2-186.3 amended. Identity theft.** Clarifies that the identities of dead, as well as living, people are protected and that the theft of the identity of a dead person is punishable. HB 2061; CH. 847.

§§ **2.2-3800, 17.1-227, 18.2-186.3, 18.2-204.1, and 42.1-82 amended; §§ 18.2-186.3:1 and 18.2-186.5 added. Identity theft.** Limits the appearance of social security numbers on identification cards and parcels. The bill punishes the distribution or possession with intent to distribute another's personal identifying information or the distribution of the means by which personal information may be stolen. The bill creates a mechanism whereby a victim may expunge a criminal charge resulting from identity theft. The bill punishes obtaining goods and services, and identification documents and information of another. The bill requires the Library Board to develop regulations providing for the destruction of social security numbers in public records. The bill allows a clerk of court to refuse to record a document upon which there appears a grantor's or grantee's social security number. The bill sets up a procedure for blocking credit misinformation appearing in a credit report. HB 2175; CH. 914.

§§ **2.2-3800, 17.1-227, 18.2-186.3, 18.2-204.1, and 42.1-82 amended; §§ 18.2-186.3:1 and 18.2-186.5 added. Identity theft.** Limits the appearance of social security numbers on identification cards and parcels. The bill expands limits on acquisition and use of the personal identifying information of another, including use of identifying information of a dead person. The bill requires the Library Board to develop regulations providing for the destruction of social security numbers in public records. The bill sets up a procedure for blocking credit misinformation appearing in a credit report and expungement of false identity information in police and court records. SB 979; CH. 918.

§§ **18.2-187.1, 18.2-190.1 through 18.2-190.5, 18.2-190.7, and 18.2-190.8 amended. Electronic communications devices.** Replaces the term telecommunications with electronic

communications, which is more accurate, and streamlines the definition of that term. Electronic communication includes all transfers of information, which the statute addresses. The new definitions of "electronic communication device," "electronic communication service," and "electronic communication service provider" are equivalent to the old definitions of "telecommunication device," "telecommunication service," and "telecommunication service provider" except for the above-mentioned changes. HB 1931; CH. 354.

§ **18.2-204.1 amended. Fraudulent use of birth certificates.** Makes it unlawful for any person to sell or transfer the birth certificate of another for the purpose of establishing a false identity for himself or for another person. Currently it is unlawful to obtain or possess the birth certificate of another for such purpose. HB 1619; CH. 889.

§§ **18.2-246.2 and 18.2-246.4 amended; § 19.2-10.1 added. Subpoena duces tecum for financial records in criminal matter.** Requires a financial institution or credit card issuer to disclose bank records or credit card information concerning a customer upon the issuance of a subpoena duces tecum. Provision is made for the financial institution or credit card issuer to move to quash or modify the subpoena duces tecum if compliance would cause an undue burden and for holding harmless the financial institution or credit card issuer or its employees for releasing such information or records pursuant to an order. The statement of facts documenting the reasons the records or information is sought will be sealed upon issuance of the subpoena duces tecum, and the use of such records or information is limited to the investigation and legitimate law-enforcement purposes. At the end of the investigation the records or information will be sealed. A provision is added allowing seizure of certain property used in money laundering and punishable as a felony under the laws of another state or territory of the United States, the District of Columbia, or the United States. HB 1928; CH. 541/SB 1135; CH. 549.

§§ **18.2-246.6 through 18.2-246.15.** See § 58.1-1015; SB 956.

§ **18.2-251.02 amended. Drug Offender Assessment Fund.** Provides that part of the monies available from the Drug Offender Assessment Fund shall be appropriated to the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies, in addition to the current appropriations to the Department of Corrections, the Department of Juvenile Justice and the Commission on the Virginia Alcohol Safety Action Program (VASAP). HB 2390; CH. 606.

§ **18.2-255.2 amended. Sale of drugs on or near certain properties; penalty.** Clarifies that the prohibition against possessing drugs with intent to distribute on school properties, recreation centers, libraries, and hospitals applies regardless of where the person intended to distribute the drugs. HB 2615; CH. 91/SB 1071; CH. 80.

§§ **18.2-266.1 and 46.2-391.2 amended. Drivers' license suspension; underage drinking and driving.** Adds an automatic seven-day administrative license suspension as a penalty when

a person under the age of 21 operates a motor vehicle after consuming alcohol and has a blood alcohol concentration (BAC) of 0.02. This makes the BAC for the seven-day administrative drivers' license suspension for persons under 21 consistent with the violation for driving after consuming alcohol under age, which is 0.02. HB 2324; CH. 605.

§§ 18.2-268.6, 18.2-268.7, 18.2-268.8, 18.2-268.11, 46.2-341.26:6, 46.2-341.26:7, 46.2-341.26:8, and 46.2-341.26:11 amended. Blood samples taken from DUI accuseds. Eliminates the requirement that the officer give the accused information on how to obtain an independent analysis of the second vial of blood. The accused may, within 90 days after the blood sample is taken, request a court order directing the Division of Forensic Science to transmit the remaining sample to an independent laboratory for analysis. HB 1399; CH. 933/SB 972; CH. 936.

§ 18.2-270 amended. Penalty for driving while intoxicated (DUI). Imposes minimum fines of \$250, \$500 and \$1,000 for first, second and third offense DUI convictions, respectively. HB 1702; CH. 591.

§ 18.2-270 amended. Driving while intoxicated; penalty. Provides mandatory, minimum fines for conviction of driving while intoxicated. For a first offense, \$250; for a second offense, \$500; and for a third or subsequent offense, \$1,000. Also mandates a mandatory, minimum five days in jail for a conviction with a passenger in the vehicle who is 17 years of age or younger. SB 1019; CH. 573.

§ 18.2-271.1 amended. DUI; restricted license. Makes retroactive a provision enacted during the 2002 General Assembly which provided that the court that convicted a person of DUI has continuing jurisdiction over the person during any period of license revocation resulting from that conviction, for the purposes of referring the person to a certified alcohol safety action program and providing a restricted permit whether or not it took either such action at the time of the conviction. The bill also gives the court the authority to impose terms and conditions if it issues a restricted license or requires participation in VASAP. SB 1302; CH. 290.

§ 18.2-271.2. See § 30-156; SB 1315.

§§ 18.2-282, 18.2-284, 18.2-287.4, 18.2-308.1, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.7, 18.2-433.1, and 22.1-277.07 amended. Definition of a firearm. Revises the definitions of "firearm," "handgun" and "assault rifle" where they are defined in various sections in Title 18.2 (except for brandishing) and Title 22.1 with terms used in the definition of "firearm" in Title 29.1 (Game, Inland Fisheries and Boating). The word "explosion" is replaced with "by action of an explosion of a combustible material," and "projectile" with "single or multiple projectiles." HB 1856; CH. 976.

§ 18.2-308.1 amended. Firearms on school property and locked vehicle trunks. Clarifies an exception for a person possessing an unloaded firearm on school property in a "closed container" by providing that the definition of "closed container" includes a locked vehicle trunk. HB 2763; CH. 619.

§ 18.2-308.2 amended. Stun weapons or tasers. Restores the provision enacted in 2001 (HB 2327 and SB 1306) making possession of stun weapons and tasers by convicted felons a Class 6 felony. An accompanying exception allowing possession of stun weapons and tasers in the felon's residences or curtilages thereof inadvertently expanded the exception to include all firearms. In 2002 HB 300 was introduced to fix that problem but inadvertently removed the prohibition on possession of stun weapons and tasers by convicted felons. SB 1140; CH. 110.

§ 18.2-308.2:2 amended. Definition of antique and curio firearms. Redefines definition of antique firearm to follow the definition in federal law. The bill adds a definition of curio (and relic) firearms taken from the Code of Federal Regulations and includes them as antique firearms. Under current law a person does not have to have a criminal background check to purchase an antique firearm and antique firearms are not subject to the one handgun per month restrictions. HB 1501; CH. 833.

§ 18.2-308.4 amended. Possession of firearm while in possession of certain drugs. Revises statute penalizing possession of a firearm while in possession of Schedule I or II drugs to provide that possession of both is a Class 6 felony with no mandatory minimum. A person who possesses a firearm "on or about his person" while in possession of Schedule I or II drugs is subject to a Class 6 felony with a two-year mandatory minimum term of imprisonment. The possession of a firearm with intent to manufacture or distribute such drugs or more than one pound of marijuana remains a Class 6 felony with a minimum, mandatory term of imprisonment of five years. HB 2181; CH. 949.

§§ 2.2-203, 2.2-3705, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22 through 18.2-340.26, 18.2-340.29 through 18.2-340.37, 58.1-3, and 58.1-4019.1 amended; §§ 2.2-904, 2.2-905, 2.2-2452, and 2.2-2453 added; §§ 18.2-340.17 and 18.2-340.21 repealed. Charitable gaming; creation of the Department of Charitable Gaming. Creates the Department of Charitable Gaming with its director appointed by the Governor. The bill eliminates the Charitable Gaming Commission and in its place creates the Charitable Gaming Board as a policy board. The Charitable Gaming Board has the power to adopt regulations relating to charitable gaming and the Department of Charitable Gaming is responsible for the administration and enforcement of the charitable gaming laws and Board regulations. The bill also provides for the Board to examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations, and provide a report to the Governor and the 2004 Session of the General Assembly. The bill contains numerous technical amendments. SB 1278; CH. 884.

§§ 18.2-362 and 20-40 amended. Bigamy. Provides that venue for a bigamy prosecution may be where the subsequent marriage occurred or where the parties to the subsequent marriage cohabited. SB 846; CH. 99.

§§ 18.2-371, 18.2-371.1, and 40.1-103 amended;

§§ 8.01-226.5:2 and 63.2-910.1 added. **Abandoned babies; affirmative defense to prosecution.** Provides that when a parent voluntarily delivers a child no older than 14 days to a hospital or rescue squad, the parent will have an affirmative defense to prosecution for abuse or neglect, if the abuse or neglect prosecution is based solely upon having left the baby at such facility. Personnel who accept babies under these conditions are immune from liability absent gross negligence or willful misconduct. HB 2447; CH. 822/SB 1151; CH. 816.

§ 18.2-371.2 amended. **Prohibiting attempted purchase of tobacco products by minors.** Prohibits attempted purchase of tobacco products by minors. Currently, only the completed purchase is a civil offense. The bill provides a specific exception for purchases associated with law-enforcement activities. HB 1403; CH. 114.

§ 18.2-371.2 amended. **Sale of "wrappings" to minors prohibited.** Prohibits the sale or purchase of wrappings to minors. This bill defines "wrappings" as including papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar. The penalties for retailers and for minor purchasers provided under present law for sale or purchase of tobacco products would apply to the sale or purchase of such wrappings. HB 2616; CH. 615.

§§ 18.2-374.1:1 and 18.2-374.3 amended; § 19.2-390.3 added. **Child Pornography Images Registry; child pornography; penalties.** Establishes a Child Pornography Registry that includes images of sexually explicit visual material presented as evidence and used in a conviction for a child pornography offense. The bill increases the penalties for child pornography possession to a Class 6 felony (from a Class 1 misdemeanor) and second and subsequent offenses to a Class 5 felony (from a Class 6 felony). HB 2457; CH. 935/SB 1153; CH. 938.

§ 18.2-403.2. See § 3.1-796.122; HB 1865.

§ 18.2-460 amended. **False reports to law-enforcement officials; penalty.** Increases from a Class 2 misdemeanor to a Class 1 misdemeanor the punishment for knowingly and willfully making a materially false statement or representation to a law-enforcement officer who is in the course of conducting an investigation of a crime committed by another person. HB 2649; CH. 149/SB 1234; CH. 111.

§ 18.2-472.1. See § 9.1-900; SB 1332.

§ 18.2-479.1 added. **Resisting arrest.** Provides that any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. The crime is defined as fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave. HB 2826; CH. 805/SB 1336; CH. 112.

§ 18.2-500 amended. **Crimes; damage to business reputation, etc.** Eliminates the prohibition placed on plaintiff's counsel to contract for fees greater than that allowed by the court for representing a business whose reputation, trade, business or profession has been injured by acts of another. SB 1233; CH. 578.

TITLE 19.2. CRIMINAL PROCEDURE.

§ 19.2-10.1. See § 18.2-246.2; HB 1928/SB 1135.

§ 19.2-10.1 added. **Subpoena duces tecum for financial records in criminal matter.** Requires a financial institution or credit card issuer to disclose bank records or credit card information concerning a customer upon the issuance of a subpoena duces tecum. Provision is made for the financial institution or credit card issuer to move to quash or modify the subpoena duces tecum if compliance would cause an undue burden and for holding harmless the financial institution or credit card issuer or its employees for releasing such information or records pursuant to an order. The statement of facts documenting the reasons the records or information are sought will be sealed upon issuance of the subpoena duces tecum, and the use of such records or information is limited to the investigation and legitimate law-enforcement purposes. At the end of the investigation the records or information will be sealed. SB 992; CH. 223.

§ 19.2-11.01 amended. **Crime victim rights.** Adds a child's foster parents or other custodians to the definition of "victim" in the Crime Victim and Witness Rights Act for the purpose of offering victim input at the proceedings. Persons so defined have the right to remain in the courtroom, to submit a victim impact statement and to testify at a sentencing hearing. This bill arises out of an Alexandria case in which a foster mother was unable to testify at the sentencing hearing of the man convicted of killing her foster daughter. HB 2379; CH. 764/SB 1162; CH. 751.

§§ 2.2-511 and 19.2-11.01 amended. **Victims' rights.** Expands the services and information that law enforcement, the attorney for the Commonwealth and the Attorney General's Office must supply to victims of crimes. Victims will receive additional and more timely information about the investigatory and posttrial process. SB 1003; CH. 103.

§§ 9.1-143, 15.2-1737, and 19.2-13 amended; §§ 9.1-150.1 through 9.1-150.4 added. **Special conservators of the peace.** Makes comprehensive changes to the requirements governing appointments of special conservators of the peace. The bill also provides that the Criminal Justice Services Board may adopt training standards/requirements for special conservators of the peace; requires that, effective September 15, 2004, a person possess a valid registration issued by the Department of Criminal Justice Services before he may be appointed a special conservator of the peace; and provides that the Department of Criminal Justice Services investigate the suitability of appli-

cants for registration, including conducting a drug and alcohol screening. Persons registered as special conservators of the peace must be covered by a cash or surety bond, or liability insurance or self-insurance.

The employers of those individuals exempted from the registration requirements due to their employment, such as law-enforcement officers, must notify the circuit court within 30 days of the date the employee leaves employment and the former employee's powers as a special conservator are void. Failure to provide such notification is punishable by a fine of \$250 plus an additional \$50 per day for each day such notice is not provided.

The bill limits court appointments of conservators of the peace to the judicial circuit wherein application was made, voids appointments of school security officers as special conservators of the peace prior to July 1, 2002, and voids appointments of special police officers pursuant to § 15.2-1737 as of September 15, 2004. The Private Security Services Advisory Board is expanded to include a special conservator of the peace member. This bill is a recommendation of the Virginia State Crime Commission. SB 1240; CH. 922.

§ 19.2-76.1 amended. Destruction of misdemeanor arrest warrants, etc. Allows for the destruction of misdemeanor arrest warrants, summonses and capias that were issued for a now deceased person, based on mistaken identity or as a result of any other technical or legal error. HB 2510; CH. 147.

§ 19.2-143 amended. Forfeiture of recognizance bond. Changes outdated wording to current practice. Under the existing statute a judge is required to enter the default on "the page of his docket whereon the case is docketed." In practice, dockets are maintained on the automated case management system and district courts no longer maintain hard copy dockets. The bill requires the default to be entered on "case papers." This bill was recommended by the Committee on District Courts. HB 1787; CH. 840.

§§ 19.2-152.1, 38.2-1800, 38.2-1824, 38.2-2411, 38.2-2412, and 58.1-3724 amended; §§ 19.2-152.1:1 through 19.2-152.1:7 and 38.2-1865.6 through 38.2-1865.13 added. Bail bondsmen. Establishes an insurance agent license for surety bail bondsmen. A person who has not obtained a surety bail bondsman license from the State Corporation Commission is prohibited from selling, soliciting or negotiating insurance on behalf of an insurance company that becomes surety on or guarantees a bond that is posted to assure performance of terms and conditions specified as a condition of bail. To qualify for such a license, an individual must (i) be licensed by the Commission as a property and casualty insurance agent; (ii) pass an examination; and (iii) submit his fingerprints and authorization for the conduct of a national criminal history record information check through the Central Criminal Records Exchange to determine whether the applicant has been convicted of a felony. The Commission will also be provided copies of each power of attorney from a fidelity and surety insurer appointing the individual to execute bonds on its behalf. The Commission shall not issue, renew or reissue a surety bail bondsman license to

any individual who has been convicted of a felony unless his civil rights have been restored. The Commission is required to establish a separate database from which it may access pertinent information regarding licensed surety bail bondsmen. A surety bail bondsman license is issued for a two-year term. The Commission shall provide for the collection of fees for license issuance and renewal that are sufficient to cover the expenses of administering and operating the program. In addition, revocation or refusal to issue or renew a license is mandatory for certain enumerated causes. The Commission is required annually to furnish to the Clerk of the Supreme Court and to every clerk of circuit court a list of all licensed surety bail bondsmen and notice of any suspension or revocation of a surety bail bondsman's license or a fidelity and surety insurer's license. The measure also requires any property bail bondsman to obtain a certificate from a circuit court judge. No person shall carry on the business of a property bail bondsman without such a certificate, which is a prerequisite for a revenue license in the localities that require such licenses for property bail bondsmen. In order to obtain a certificate after October 1, 2003, a property bail bondsman must provide information regarding his identity and property, which may include an appraisal of the fair market value of real estate, an affidavit regarding any liens thereon and his equity in the property, and fingerprints and other information in order to conduct a criminal history record information check through the Central Criminal Records Exchange. All existing certificates of property bail bondsmen will expire on October 1, 2003. This measure is a recommendation of the Virginia State Crime Commission. HB 1905; CH. 979

§ 19.2-152.4:3 added. Duties and responsibilities of local pretrial services officers. Spells out with specificity the duties and responsibilities of local pretrial services officers. HB 2232; CH. 603.

§§ 19.2-152.8, 19.2-152.9, and 19.2-152.10 amended. Protective orders when warrant issued for perpetrator. Includes in the provisions that allow for the issuance of protective orders following incidents of stalking, provisions that allow for the issuance of protective orders following incidents of acts of violence resulting in serious bodily injury to a person. In order to obtain a protective order under these provisions an arrest warrant must have been issued for the alleged perpetrator. SB 893; CH. 730.

§ 19.2-164. See § 8.01-384.1:1; SB 970.

§ 19.2-165.1 amended. Payment of medical fees in certain criminal cases. Provides that upon conviction of the defendant in any case in which medical fees were incurred in the process of gathering evidence, the court shall order that the defendant reimburse the Commonwealth. HB 1424; CH. 28/SB 1209; CH. 772.

§ 19.2-166 amended. Court reporters. Provides that each judge of a court of record having jurisdiction over criminal proceedings is authorized to appoint a court reporter to record felony cases and habeas corpus proceedings. Prior law provided such authorization only in felony cases. HB 2220; CH. 140.

§§ 19.2-169.1 and 19.2-169.2 amended. Competency to stand trial. Amends two of the statutes in the provisions regarding the defendant's competency to stand trial to provide that those statutes apply whether the defendant is a juvenile who is being tried as an adult or is an adult. The statutes amended govern raising the question of incompetency to stand trial and evaluation, and disposition and treatment when the defendant is found incompetent. HB 1599; CH. 735.

§ 19.2-169.3 amended. Disposition of the unrestorably incompetent defendant. Provides that an unrestorably incompetent defendant charged with capital murder may be ordered to continue to receive treatment and competency evaluations indefinitely during his commitment. Currently, such person would have to be released after five years. HB 2514; CH. 915/SB 1160; CH. 919.

§§ 18.2-10, 19.2-175, 19.2-264.3:1 and 19.2-264.4 amended; §§ 8.01-654.2, 19.2-264.3:1.1, 19.2-264.3:1.2, and 19.2-264.3:3 added. Death penalty; mental retardation. Establishes procedures for determining whether a defendant in a capital case is mentally retarded and may not be sentenced to death. In June the United States Supreme Court in *Atkins v. Virginia*, 536 U.S.____ (2002) held that the execution of a mentally retarded person is cruel and unusual punishment prohibited by the Eighth Amendment. This bill defines mental retardation, sets procedures for determining whether a defendant meets the definition and provides for the appointment of expert evaluators. When mental retardation is at issue, a determination will be made by the jury (or judge in bench trials) as part of the sentencing proceeding. The defendant bears the burden of proving mental retardation by a preponderance of the evidence. The bill establishes a procedure for defendants sentenced to death prior to the effective date of the bill to raise the issue of mental retardation. The majority of this bill was drafted by a subcommittee of the Crime Commission and the bill, as introduced, was a recommendation of the Commission. HB 1923; CH. 1031 (effective 4/29/03).

§§ 18.2-10, 19.2-175, 19.2-264.3:1 and 19.2-264.4 amended; §§ 8.01-654.2, 19.2-264.3:1.1, 19.2-264.3:1.2, and 19.2-264.3:3 added. Death penalty; mental retardation. Establishes procedures for determining whether a defendant in a capital case is mentally retarded and may not be sentenced to death. In June the United States Supreme Court in *Atkins v. Virginia*, 536 U.S.____ (2002) held that the execution of a mentally retarded person is cruel and unusual punishment prohibited by the Eighth Amendment. This bill defines mental retardation, sets procedures for determining whether a defendant meets the definition and provides for the appointment of expert evaluators. When mental retardation is at issue, a determination will be made by the jury (or judge in bench trials) as part of the sentencing proceeding. The defendant bears the burden of proving mental retardation by a preponderance of the evidence. The bill establishes a procedure for defendants sentenced to death prior to the effective date of the bill to raise the issue of mental retardation. The majority of this bill was drafted by a subcommittee of the Crime Commission and the

bill, as introduced, was a recommendation of the Commission. SB 1239; CH. 1040 (effective 5/1/03).

§ 19.2-188 amended; § 8.01-390.2 added. Reports and records by Chief Medical Examiner admissible in both civil and criminal proceedings. Clarifies that reports prepared or attested to by the Chief Medical Examiner or an Assistant Chief Medical Examiner, and certified reports of autopsies are admissible in both civil and criminal courts. Under current law, because § 19.2-188 is sited in the title of the Code dealing with criminal procedure, the question has been raised as to whether the word "court" includes civil courts. SB 1002; CH. 459.

§ 19.2-194 amended. Grand jurors. Increases the number of persons summoned to serve on a grand jury to nine from seven under current law. SB 817; CH. 825.

§ 19.2-208 amended. Special grand jury. Expands subpoena power to include "tangible things." Records, papers and documents are already included. SB 811; CH. 565.

§ 19.2-212 amended. Grand jury records. Amends provision that requires grand jury notes, tapes and transcripts to be destroyed if there is no prosecution for perjury instituted within three years, to allow the court to delay destruction upon the request of the attorney for the Commonwealth if the grand jury was impanelled at his request. SB 810; CH. 96.

§ 19.2-226 amended; § 19.2-390.01 added. Crime code references. Requires the use of Virginia crime code references for jailable offenses on all charging documents issued by magistrates, criminal warrants, summons, criminal indictments, informations and presentments, criminal petitions, summonses and dispositional documents from criminal trials, effective October 1, 2004. The crime codes will be recorded and stored in computer systems maintained by the State Police, the Supreme Court, the Department of Corrections, the Parole Board, the Department of Criminal Justice Services, the State Compensation Board and the Department of Juvenile Justice. The bill states that the crime code will be used only to facilitate administration and research, and will not have any legal standing related to a particular offense or offenses.

The bill also clarifies that no indictment or other accusation will be invalid if the Virginia crime code references are omitted or stated incorrectly. The Virginia crime code references are maintained by the Virginia Criminal Sentencing Commission. This bill was introduced by the Virginia State Crime Commission. HB 2541; CH. 148 (effective 10/1/04).

§ 19.2-249 amended. Criminal procedure; offenses committed on boundary of localities. Provides that when an offense is committed on the boundary of two cities, the arrest and prosecution may be done by either city. HB 1496; CH. 116.

§ 19.2-294 amended. Offense against two or more statutes or ordinances; double jeopardy. Amends statute that provides that a prosecution under a federal statute is a bar to prosecution under the comparable state statute to state that prosecution under a federal statute is deemed commenced when jeopardy attaches. Under current law a federal prosecu-

tion is deemed commenced with the return of an indictment by a grand jury or the filing of an information. HB 1683; CH. 736.

§ 19.2-298.1 amended. Sex Offender and Crimes Against Minors Registry. Requires registration of a person who has been convicted of a third or subsequent offense of unlawful photographing, videotaping or filming of a nonconsenting person who is nude or in a state of undress that exposes private body parts in circumstances where the person would have a reasonable expectation of privacy. SB 1164; CH. 732.

§§ 19.2-298.1 through 19.2-298.4, 19.2-390, 19.2-390.1, and 19.2-390.2. See § 9.1-900; SB 1332.

§§ 9.1-177.1 and 19.2-299 amended. Sealing of probation reports. Provides that investigation reports prepared by local probation officers are sealed upon final order of the court rather than upon receipt of the report by the court. The bill also provides that presentencing reports are to be sealed upon final order by the court rather than upon entry of the sentencing order. HB 2500; CH. 146.

§ 19.2-299 amended. Waiver of presentence reports. Allows the waiver of the presentence report requirement in criminal cases when the court, the Commonwealth and the defendant agree. HB 2578; CH. 613.

§ 19.2-301 amended. Mental examination report. Requires that the mental examination report for persons convicted of a crime indicating a sexual abnormality be furnished to the defendant, defense counsel and the attorney for the Commonwealth five days in advance of the sentencing hearing and to the judge in advance of the sentencing hearing. Current law states that the report shall be furnished "when completed." SB 1338; CH. 886.

§ 19.2-305.1 amended. Restitution to crime victims. Removes the provision that exempted DUI convictions from the requirement for restitution for property damage or loss, medical expenses of the victim and community service. The bill also allows the court to include expenses directly related to funeral or burial as restitution. HB 2008; CH. 982.

§§ 16.1-299.1, 19.2-310.2:1, 19.2-310.3, 19.2-310.3:1, and 19.2-310.4 amended. DNA samples for violent crime arrests. Clarifies that a DNA sample may be taken upon an arrest pursuant to a finding of probable cause by a grand jury as well as a magistrate; clarifies that a DNA sample is not to be destroyed upon an acquittal if there is a pending arrest that requires DNA sample retention; and requires that the sample be taken at the location designated by the arrest booking law-enforcement agency rather than the magistrate. The bill makes other technical corrections. HB 2661; CH. 150.

§ 19.2-327.01 added. Final judgments in circuit court; when modifiable and appealable. Provides that final judgments in circuit court criminal cases remain under the control of the circuit court for 90 days rather than the current 21 days. The filing deadlines for appeals and the transfer of the trial record to the Court of Appeals are proportionately increased to

maintain consistency with current practice. The law is effective July 1, 2004. SB 1143; CH. 1017.

§ 19.2-327.3 amended. Writs of actual innocence. Clarifies the procedure for service upon the Attorney General and attorney for the Commonwealth and filing deadlines. The bill allows acceptance of service as verification of service, whereas the Code says that the Supreme Court may not accept the petition unless it is accompanied by a duly executed return of service verifying that a copy has been served on the Attorney General and attorney for the Commonwealth. The bill also specifies that the 30 days for the Attorney General's response begins to run upon receipt of the record by the clerk of the Supreme Court. Under current law it is not clear when the 30 days begins to run. This bill is a recommendation of the Judicial Council. HB 1922; CH. 131.

§ 19.2-349 amended. Criminal procedure; collection of delinquent fines, costs, etc. Allows the attorney for the Commonwealth to enter into an agreement with the county or city treasurer for the collection of fines, costs, forfeitures and penalties that are delinquent more than 30 days. Currently the attorney for the Commonwealth can contract with private attorneys, private collection agencies or the local governing body for the collection of such fines, costs, forfeitures and penalties. HB 2461; CH. 262.

§ 19.2-387 amended. Nomenclature correction. Corrects nomenclature by changing the "Bureau" to the "Division" of Forensic Science. HB 2430; CH. 431.

§ 19.2-389. See § 2.2-1201.1; SB 1012.

§ 19.2-389.1 amended. DNA of juvenile felons. Provides that criminal history information concerning juveniles shall be available to the Division of Forensic Science to verify its authority (based upon the felonious nature of the juvenile's criminal act) to maintain the juvenile's sample in the DNA data bank. HB 2432; CH. 432.

§ 19.2-389.1 amended. Juvenile criminal records. Authorizes the release of juvenile information in the Central Criminal Records Exchange (CCRE) to certain State Police, sheriff and police department employees for purposes of the administration of criminal justice. Under the Code, fingerprints and disposition must be forwarded to CCRE for a juvenile of any age found guilty of a felony, misdemeanors under Title 54.1, and misdemeanors punishable by confinement in jail except for trespassing, DUI and disorderly conduct. However, fingerprints are only required to be taken for juveniles aged 14 and older charged with a violent juvenile felony. Taking fingerprints for other charges is discretionary by law enforcement. The introduced bill was a recommendation of the Youth Commission. SB 1077; CH. 107.

§ 19.2-390 amended. Central Criminal Records Exchange; criminal nonsupport. Requires that a report of an arrest or conviction for criminal nonsupport be submitted to the Central Criminal Records Exchange, along with the fingerprints of the person arrested or convicted. HB 1383; CH. 27/SB 707; CH. 727.

§ 19.2-390.1 amended. Sex Offender Registry. Requires the Department of State Police to provide the Virginia Criminal Sentencing Commission with Registry data in an electronic format. The Commission may use the data for research, evaluative or statistical purposes only and must ensure the confidentiality and security of the data. The Commission is required to keep the data confidential and secure. Use of the information for unauthorized purposes is a Class 1 misdemeanor. HB 1434; CH. 391.

§ 19.2-390.3. See § 18.2-374.1:1; HB 2457/SB 1153.

§§ 8.01-675.3, 19.2-398, 19.2-400 through 19.2-406, 19.2-408, and 19.2-409 amended. Commonwealth's right to appeal. Makes changes to reflect a 2002 amendment that allowed the Commonwealth to appeal a felony sentence that is contrary to mandatory statutory sentencing or restitution terms. Prior to the 2002 amendment the provisions addressed only pretrial appeals and amendments were needed to delineate between the procedures that apply to pretrial appeals and those that apply to a sentencing appeal. SB 1134; CH. 109.

TITLE 20. DOMESTIC RELATIONS.

§ 20-25 amended. Persons who may perform marriage rites. Provides that federal judges who reside in Virginia may perform marriages without an order of authorization and without giving bond. SB 1280; CH. 228.

§ 20-40. See § 18.2-362; SB 846.

§§ 20-60.3 and 20-107.1 amended. Divorce decrees. Makes it clear that certain language regarding child support does not have to be in a divorce decree when the parties have no minor children whom they have a mutual duty to support and specifies what language has to be included in such circumstances. SB 839; CH. 625.

§ 20-87.1. See § 63.2-100; SB 1101.

§ 20-103. See § 16.1-278.15; HB 2128/SB 1097.

§ 20-108. 2. See § 30-156; SB 1315.

§ 20-109.1 amended. Child support; enforceability of agreements on future modifications. Provides that the court may affirm, ratify and incorporate by reference in its divorce, annulment and support decrees an agreement between the parties as to modification of child support. Any such provisions shall not require a further court decree for their enforcement, but are subject to the revision and alteration provisions of § 20-108. HB 2386; CH. 260.

§ 20-121.4. See § 8.01-217; HB 2305.

§ 20-124.1. See § 63.2-1215; SB 1298.

§ 20-124.2 amended. Child custody evaluations. States that a district or circuit court may order an independent mental health or psychological evaluation in any case in which custody or

visitation of minor children is at issue. The court may order payment by the parties as it deems appropriate. HB 2545; CH. 520.

§ 20-124.2:1 added. In camera interviews in child custody or visitation hearings. Provides that in a child custody or visitation proceeding in a court of record, where the court conducts an in camera interview of a minor child without the presence of the parties or their counsel, the court shall prepare a record of the interview, which shall be made a part of the record in the case, unless the parties otherwise agree or the child's safety would be endangered. The cost of creating the record shall be taxed as costs to the parties. SB 1288; CH. 1024.

§ 20-155 amended. Marital agreements. Provides that marital agreements for the purpose of settling the rights and obligations of the spouses need not be in writing and are considered signed by the parties if the terms of the agreement are (i) contained in a court order endorsed by counsel or the parties or (ii) recorded and transcribed by a court reporter and affirmed personally by the parties on the record. This bill addresses *Flanary v. Milton*, 263 Va. 20 (2002), which held that an oral agreement recited into the record by the parties' attorneys during a deposition was not valid because it was not in writing and signed by the parties as required by § 20-149. HB 2303; CH. 662/SB 866; CH. 669.

TITLE 21. DRAINAGE, SOIL CONSERVATION, SANITATION AND PUBLIC FACILITIES DISTRICTS.

§§ 21-118 and 21-248. See § 25.1-100; SB 1007.

TITLE 22.1. EDUCATION.

§ 22.1-16.2. See § 52-34.1; HB 1832/SB 1204.

§ 22.1-26 amended. Joint schools. Allows two or more school boards, with the consent of the State Board, to establish joint or regional high schools, including regional public charter schools, to offer, in addition to a comprehensive high school curriculum, specialized training to students desiring to pursue careers in law enforcement, fire fighting, emergency and rescue services, and other occupations addressing public safety and welfare. These schools may be designed to incorporate the instructional services of retired or disabled emergency, fire, rescue, and law-enforcement personnel and internships with local agencies and organizations providing such emergency, fire, rescue, and law-enforcement services. SB 1099; CH. 165.

§ 22.1-32 amended. School board salaries; Southampton County. Corrects the school board salary statute by reinserting the Southampton County school board salary cap, which was

inadvertently eliminated from statute by HB 1141 in 2002. In addition, the salary cap is increased from \$2,400 to \$5,000.

Pursuant to HB 1141, only appointed school boards must seek General Assembly action for an increase in their respective salary caps. The 2002 Session adopted legislation providing that any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter. The specific salary limits that are currently provided for most school boards in Virginia were eliminated for elected school boards; however, for appointed school boards the specific salary limits were to be retained. Title 15.2 sets specific salary caps for city councils and boards of supervisors by population brackets; town councils may set their own salary levels. HB 1404; CH. 175.

§ 22.1-32 amended. School board salaries. Allows county school boards whose membership is elected or appointed for staggered terms to establish a salary increase prior to July 1 of any year in which at least 40 percent of its members are to be elected or appointed. Current law permits this to occur in a year in which 50 percent of such members are to be elected or appointed. In addition, a technical amendment clarifies that the salary procedures for Arlington County School Board must comply with the provisions of § 15.2-702.1 relating to salaries and expenses for board members under the county manager plan form of government. Arlington County is the only jurisdiction having the county manager plan form of government. HB 2437; CH. 713.

§ 22.1-60 amended. School superintendent contracts. Requires that whenever a division superintendent's contract is being renegotiated, all members of the school board must be notified at least 30 days in advance of any meeting at which a vote is planned on the renegotiated contract unless the members agree unanimously to take the vote without the 30 days notice. Each member's vote on the renegotiated contract must be recorded in the minutes of the meeting. The local governing body, as the entity responsible for appropriating school board funds, must ultimately approve the local school board budget, pursuant to § 22.1-92. SB 756; CH. 866.

§ 22.1-79.1 amended. Four-day school week. Provides that local school boards may approve, pursuant to guidelines developed by the Board of Education, school-proposed alternative school schedule plans, including those providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through 12 and 540 hours for kindergarten. No alternative plan that reduces the instructional time in the core academics shall be approved.

The Standards of Accreditation (SOA) (8 VAC 20-131-150) set the standard school year at 180 days, with the standard school day for students in grades one through 12 to "average at least 5-1/2 hours, excluding breaks for meals, and a minimum of three hours for kindergarten." The SOA permit school divisions to develop alternative schedules for meeting these requirements

as long as a minimum of 990 hours of instructional time is provided for grades one through 12 and 540 hours for kindergarten. Such alternative plans must be approved by the local school board and by the Board of Education under guidelines established by it. HB 2806; CH. 724.

§ 22.1-79.3 amended. School board policies; equal access. Prohibits local school boards providing access and opportunity to use school facilities or to distribute literature from denying equal access or fair opportunity to use such school facilities or to distribute literature, or from otherwise discriminating against the Boy Scouts of America or the Girl Scouts of the USA.

Nothing in the measure is to be construed to require any school or school division to sponsor the Boy Scouts of America or the Girl Scouts of the USA or to exempt any such group from school board policies governing access to and use of school facilities and distribution of literature. HB 1518; CH. 693.

§ 22.1-97 amended. School funding; reporting of required local expenditure. Codifies and broadens existing budget language to direct the Department of Education to collect annually necessary data to make calculations at the beginning and end of each school year to ensure that each school division has appropriated sufficient funds to support its estimated required local expenditure for providing an educational program meeting the prescribed Standards of Quality (SOQ). The end-of-year calculations shall be designed to verify whether the locality has provided the required expenditure, based on average daily membership as of March 31 of the relevant school year.

The Department is to report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the results of such calculations and the degree to which each school division has met, failed to meet, or surpassed its required expenditure. Similarly, the Joint Legislative Audit and Review Commission (JLARC) is to report annually to these committees the state expenditure provided each locality for an educational program meeting the SOQ. The Department and JLARC are to coordinate to ensure that their respective reports are based upon comparable data and are delivered together, or as closely following one another as practicable, to the appropriate standing committees.

The calculations will assist the Board of Education and the Attorney General in the implementation of their existing enforcement authority, set forth in the amended section and in Standard 8 (§ 22.1-253.13:8) of the SOQ.

The measure is based on 2002 Appropriation Act language (§ 1-54, Item 147 B7, B7e) and Recommendation 8 of the 2002 JLARC Review of Elementary and Secondary School Funding. HB 2151; CH. 948.

§ 22.1-118 amended. Governor's Schools; selection of fiscal agent. Allows two or more school boards operating an academic-year Governor's School to select the fiscal agent for the school from among the treasurers of the participating localities by agreement and with the approval of the respective local governing bodies. Current law provides that the treasurer of the

locality in which a joint school (a school operated by two or more school divisions) is located will serve as fiscal agent for the joint schools.

The Governor's Schools program was first established in 1973 by Governor Linwood Holton. Supported by legislative appropriation, the initiative includes summer residential schools, summer regional schools, and 16 academic-year schools (three of which are full-day programs) and is administered by the Department of Education Programs for the Gifted cooperatively with local school divisions, colleges, and universities.

The academic-year Governor's Schools are operated as joint schools, and provide special studies in sciences, mathematics, technology, and the arts for high school students. The remainder of the student's instruction may be provided by the student's home school or by the Governor's School. These programs receive funding from the Department of Education and participating school divisions. Additional contributions to Governor's Schools are made by local school divisions, institutions of higher education, foundations, and communities. HB 2124; CH. 702.

§§ 22.1-126.1 and 22.1-127. See § 25.1-100; SB 1007.

§ 22.1-177 amended. **School buses; display of American flag decals.** Allows local school boards, notwithstanding any regulation to the contrary, to display decals depicting the flag of the United States on the sides and rear of school buses as long as any such decal does not obstruct the name of the school division or the number of the school bus and is no larger than 100 square inches.

Current Board regulations (8 VAC 20-70-210) prohibit "use of posters, stickers, or advertising material of any kind" on school buses and provide for lettering for the identification of buses (8 VAC 20-70-1050). SB 987; CH. 162.

§§ 22.1-199.2 and 22.1-253.13:1 amended. **Remediation for certain students.** Requires school boards to provide programs of prevention, intervention, and remediation for students failing an end-of-course test required for the award of a verified unit of credit needed by the student for graduation, however, these students are not required to participate in such programs. School divisions are to add these students to their existing remediation report requirements. Currently, required remediation targets students who are "educationally at risk including, but not limited to, those whose scores are in the bottom national quartile on Virginia State Assessment Program Tests and those who fail to achieve a passing score on any Standards of Learning assessment in grades three, five, and eight." HB 1757; CH. 697.

§ 22.1-205. See § 46.2-334; HB 2404.

§ 22.1-208.01 amended. **Character education; Virginia Statement of Values.** Modifies the current character education requirement to include instruction in Virginia's civic values--the principles articulated in Article I of the Virginia Constitution (Bill of Rights) and the ideals reflected in the Seal of the Commonwealth. HB 1498; CH. 777.

§ 22.1-253.13:1 amended. **Standards of Quality; appropriate learning environment.** Amends Standard 1 of the Standards of Quality to express the belief of the General Assembly and the Board of Education that the quality of public education is dependent upon an appropriate learning environment designed to promote student achievement. Standard 1 currently acknowledges the need for quality instruction as supported by appropriate benefits and compensation and the adequate commitment of other resources. HB 1493; CH. 690.

§ 22.1-253.13:1 amended. **Students with limited English proficiency; Standards of Quality.** Amends the Standards of Quality to require school boards to identify students with limited English proficiency and enroll these students in appropriate instructional programs and to require state funding, pursuant to the appropriation act, for 10 full-time equivalent instructional positions for each 1,000 students identified as having limited English.

The state share for this staffing requirement is currently funded at \$8,822,504 and \$10,428,613 in the first and second year of the 2002-2004 biennial budget, respectively (§ 1-54, Item 145 F). The Standards of Accreditation (8 VAC 20-131-70) state that "[i]nstruction shall be designed to accommodate all students, including those with disabilities, those identified as gifted/talented, and those who have limited English proficiency." HB 2442; CH. 714.

§ 22.1-253.13:1 amended. **Standards of Quality; quality instruction.** Amends Standard 1 of the Standards of Quality to express the belief of the General Assembly and the Board of Education that the quality of public education is dependent upon quality instruction that enables each student to become a productive and educated citizen of Virginia and of the United States. Standard 1 currently acknowledges the need for quality instruction as supported by appropriate benefits and compensation. The measure also reiterates the legislature's duty to fund public education as set forth in the Virginia Constitution. SB 710; CH. 861.

§ 22.1-253.13:3 amended. **High school diplomas; civics education seal.** Directs the Board of Education, by July 1, 2003, to establish criteria for awarding a diploma seal for excellence in civics education and understanding of the state and federal constitutions and the democratic model of government for the standard and advanced studies diplomas. The Board must consider criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities; and (iii) related requirements as it deems appropriate. HB 1503; CH. 691.

§ 22.1-253.13:3 amended. **Student assessments.** Provides that the Board of Education will not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction. Local school divisions may, however, opt to provide this assessment. The measure also deletes references to the Virginia State Assessment Program.

The Standards of Quality (§ 22.1-253.13:3) currently direct the Board of Education to "(i) develop appropriate assessments, which may include criterion-referenced tests and alternative assessment instruments which may be used by classroom teachers and (ii) prescribe and provide measures, which may include nationally normed tests, to be designated as the Virginia State Assessment Program, which shall be used to identify students who score in the bottom quartile at selected grade levels." The Board adopted the Stanford 9 in 1996 as the norm-referenced test--one that compares the performance of Virginia students to that of students across the nation to be administered in mathematics, reading, and language at grades four, six, and nine.

The National Assessment of Educational Progress (NAEP) is administered to samples of students from grades four, eight, and 12 for periodic testing in reading, mathematics, science, writing, history and other fields. In 1998, NAEP covered reading, writing, and civics in grades four, eight, and 12. In 2000, NAEP covered mathematics and science for grades four and eight and reading in grade four only. Virginia has been participating in NAEP since 1990. Beginning in 2005-2006, the federal No Child Left Behind act will require annual testing in grades three through eight. The Commonwealth's SOL tests are administered in three, five, and eight at the end of certain high school courses, but will be administered in grades three, four, five, six, seven, and eight in mathematics and reading by the beginning of 2005-2006. SB 779; CH. 1004

§§ 22.1-253.13:4 and 22.1-254.2 amended. General achievement diploma. Directs the Board of Education, by September 1, 2003, to develop, by regulation, requirements for the award of the general achievement diploma to students (i) passing the GED examination; (ii) successfully completing an education and training program designated by the Board; and (iii) satisfying other requirements the Board may establish. A second enactment authorizes emergency regulations. HB 1464; CH. 688 (effective-see bill).

§§ 22.1-254, 22.1-277, 22.1-277.2:1, and 22.1-288.2. See § 16.1-301; HB 1572.

§ 22.1-260 amended. Student social security numbers. Authorizes the division superintendent or his designee to assign another identifying number to students who are ineligible to obtain a federal social security number or if the student's parent is unwilling to present such number or waive the requirement.

Currently, a student enrolled in the public schools must provide a federal social security number within 90 days of his enrollment. The U.S. Supreme Court ruled in *Plyler v. Doe*, 457 U.S. 202 (1982), that the withholding of state funds for the education of undocumented children or denying such children enrollment in the public schools violates the Equal Protection Clause of the Fourteenth Amendment. This decision affords undocumented students the right to attend public schools and participate in all school activities. School officials may not require children or their parents to prove that they are in the

country legally through evidence such as green cards, citizenship papers or social security numbers.

Pursuant to § 22.1-260, the division superintendent or his designee may waive the social security number requirement. However, in practice, the division superintendent or his designee is allowed, pursuant to guidance from the Department of Education, to assign another number for identification purposes to students who are ineligible to obtain a federal social security number. This bill authorizes that practice. HB 1716; CH. 637.

§ 22.1-271.3. See § 32.1-45.1; SB 659.

§ 22.1-273.1 added. Scoliosis screening for public school students. Directs each school board to provide parent educational information or, within the time periods specified in Board of Education regulations, to implement a program of regular screening for scoliosis for pupils in grades 5 through 10, unless such students are pupils admitted for the first time to a public school and have been tested as part of the required comprehensive physical examination, or the parents of such students have indicated their preference that their children not participate in such screening. Local school boards are to develop procedures for parents to indicate their desire to "opt out."

The Board of Education is to promulgate regulations for the implementation of the screening program, which shall address, but shall not be limited to, requirements and training for school personnel and volunteers who may conduct such screenings; procedures for the notification of parents when evidence of scoliosis is detected; and such other provisions as the Board deems necessary. Local divisions may seek volunteers from among health care professionals. HB 1834; CH. 894.

§ 22.1-277.07. See § 18.2-282; HB 1856.

§ 22.1-277.07 amended. Student expulsions; possession of air rifle or BB gun. Modifies the "Gun-Free Schools" statute to add possession of an air rifle or BB gun on school property or at a school-sponsored activity to those firearms-related offenses for which school boards are to expel students for one calendar year, unless the school board determines that "special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate."

The current weapons, firearms, and destructive device definitions in the Gun-Free Schools and criminal statutes do not clearly address air rifles or BB guns. Under current law, students are to be expelled (unless "special circumstances" exist) for possession of "firearms," defined in the Gun-Free Schools statute as "any destructive device," and those weapons that may "expel a projectile by the action of an explosive," those weapons prohibited on school property or at school-sponsored activities in § 18.2-308.1. Section 18.2-308.1, in turn, cross-references and incorporates the definition of "weapons" listed in § 18.2-308 A, which includes various knives as well as "any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material."

The measure does not alter the definition of "firearm" in the criminal statutes or within the Gun-Free Schools provision. HB 1907; CH. 843.

§§ 22.1-279.3:1, 22.1-279.6, and 22.1-279.7 amended. Drug testing in public schools. Requires the Board of Education to include policies addressing voluntary and mandatory drug testing, in accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, in its guidelines for student conduct policies and student searches. The bill states that its provisions must not be construed to require any school board to adopt policies requiring drug testing; however, school boards may require drug testing in accordance with the Board's guidelines. Most recently, the U. S. Supreme Court upheld, in Board of Education of Independent School District No. 92 of Pottawatomie County, Oklahoma et al. v. Earls et al., random drug testing of public school students as a condition of participation in competitive extracurricular activities. A previous decision allowed for testing of athletes involved in competitive sports. The Board's standards for school board policies on alcohol and drugs and search and seizure must include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority. To avoid the costs of printing and mailing, the Board of Education must issue the revisions to its guidelines and model student conduct policies relating to school board policies on alcohol and drugs and search and seizure and for student searches in electronic format only. The revisions may be transmitted to the division superintendents and the public via any electronic media, including by posting the revisions to the Department of Education's website. HB 2091; CH. 899.

§§ 8.01-47 and 22.1-279.3:1 amended. Reports of certain acts by school authorities. Clarifies and revises the requirements for principals' reports to local law enforcement of incidents occurring on school buses, school property or at school-sponsored activities by (i) restructuring the clusters of incidents to separate assault and assault and battery without bodily injury from the more serious incidents involving assault and battery with bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding and (ii) eliminating the mandate that principals report all incidents involving assault and assault and battery to local law enforcement. The principal must still notify the parents of the students involved and the division superintendent and still has the discretion to report assaults and assaults and batteries without bodily injury to local law enforcement. HB 2680; CH. 954.

§ 22.1-337 and 22.1-354.1. See § 30-156; SB 1315.

§§ 2.2-3705 and 22.1-279.8 amended. School safety audits. Directs local school boards to require schools to conduct school safety audits annually, requires the audits to include specific recommendations, and provides that the results of such school safety audits shall be made public within 90 days of

completion. However, the local school board retains authority to withhold or limit the release of any security plans and specific vulnerability assessment components, which are provided a qualified exemption from the Freedom of Information Act (FOIA). The exemption from the FOIA will not be construed to prohibit the disclosure of records relating to the effectiveness of security plans after a fire, explosion, natural disaster or other catastrophic event, or after any person has been injured or threatened with personal injury. Current law defines the school safety audit as a written assessment of the safety conditions in each public school that identifies and develops solutions for various physical and personal safety and security concerns. HB 2621; CH. 801.

§ 22.1-296 amended. School board employees; compensation schedule. Requires school boards receiving a waiver from the Board of Education and setting the school calendar so that the first day students are required to attend occurs before August 15 to establish a compensation schedule ensuring that all contract personnel are compensated for time worked within the first month of employment. HB 1896; CH. 557/SB 717; CH. 531.

§ 22.1-296.1 amended. Data on convictions; school personnel. Clarifies and reinforces that, as a condition of employment for all of its public school employees, whether full-time or part-time, permanent, or temporary, every school board must require on its application for employment that the applicant certify whether he has been convicted of a crime of moral turpitude. The Virginia Supreme Court has stated that "[m]isdemeanor crimes of moral turpitude are limited to those crimes involving lying, cheating and stealing, including making a false statement and petit larceny." (Newton v. Commonwealth, 29 Va. App. 433 at 448, 512 S.E.2d 846 at 853(1999)). Current law requires that school board employment applications include certifications that the applicant has not been convicted of a felony, a crime of moral turpitude, or any offense involving the sexual molestation, physical or sexual abuse or rape of a child. HB 2757; CH. 723.

§ 22.1-312 amended. Timelines for a fact-finding panel established to hear a teacher grievance. Clarifies that the time limitations established for choosing the panel members, holding the hearing before the fact-finding panel, and making the findings and recommendations to the school board, the superintendent, and the teacher are "business" days. For purposes of this provision, "business days" means any day that the relevant school board office is open. SB 941; CH. 161.

§ 22.1-304 amended. Notification of reduction in force for teachers. Removes a July 1, 2003, sunset provision to continue the current requirement that all school boards, within two weeks of approval of the school budget by the local governing body, but no later than June 1, notify those teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

The section and corresponding amendments from the 2002 Session that would have replaced the expiring provision on July 1, 2003, are stricken; that section would have directed the

school boards of Arlington, Fairfax, Falls Church, and Prince William (identified by form of government or by population) to notify by May 15 those teachers who may be subject to a reduction in force. This bill contains an emergency clause. HB 2254; CH. 706 (effective 3/19/03).

§§ 22.1-313 and 22.1-314 amended. Timelines for decisions and appeals of teacher grievances. Clarifies that a school board has 10 business days to (i) initiate another hearing after receipt of a fact-finding panel's decision; (ii) determine grievability after the following of a grievance; and (iii) transmit a notice of appeal of its decision on grievability to the clerk of the relevant court. The bill also clarifies that the teacher has 10 business days after the school board makes its decision on grievability to file an appeal with the court and 10 business days to request a hearing before the school board after receiving the findings of fact and recommendations of a fact-finding panel. In addition, this provision clarifies that the court must sit to hear an appeal of grievability within 10 business days from receipt of the appeal. Currently, the relevant laws are silent as to whether "ten days" means 10 calendar days or 10 business days. Because school boards do not meet every week, 10 business days will provide some relief in the turnaround time of the school board's decisions and the teacher's determination to appeal, and the court will have 10 business days in which to hear an appeal of grievability. HB 1790; CH. 187.

TITLE 22.1. MISCELLANEOUS - EDUCATION.

Posting of Bill of Rights in public schools. Amends the two uncodified Acts of Assembly requiring the posting of the National Motto in public schools to add the required posting of the Bill of Rights of the Constitution of the United States. Currently, school boards, at their discretion, may accept contributions in cash or in-kind from any person to defray the costs of implementing this provision. HB 2140; CH. 902.

TITLE 23. EDUCATIONAL INSTITUTIONS.

§ 23-4.4 amended. Authorization to transfer interest in patents and copyrights owned by institutions of higher education. Authorizes institutions of higher education to transfer intellectual property in which it has an interest to a private entity without the Governor's approval if (i) the interest was developed without the use of federal funds, (ii) the private entity makes a clear and convincing case to the relevant board that its ownership of the interest is critical to its ability to commercialize that interest, and (iii) the institution receives, at a minimum, compensation equal to the anticipated revenue stream of licensing the interest. HB 2285; CH. 708.

§ 23-7.4:1. See § 2.2-203; HB 1774/SB 1092.

§ 23-9.3:1 added. Student representative; State Council of Higher Education. Directs the State Council of Higher Education to appoint a student advisory committee comprised of students enrolled in public institutions of higher education in the Commonwealth. Appointments must be made in a manner to ensure broad student representation from among the public institutions. Appointments will be for a term of one year each, except that appointments to fill vacancies will be for the unexpired term. Members may be reappointed to serve subsequent or consecutive terms. The State Council must ensure that at least one member of the student advisory committee is reappointed each year. The student advisory committee initially appointed in 2003 will elect a chairman from among its members. In subsequent years, the advisory committee must elect a chairman from among members who have already served at least one year. The student advisory committee will meet at least twice annually and will advise the State Council of Higher Education regarding such matters as may come before the advisory committee. HB 2364; CH. 710.

§ 23-9.6:1 amended. State Council of Higher Education. Directs the State Council of Higher Education to review the proposed closure of any academic program in a high demand or critical shortage area, as defined by the Council, by any public institution of higher education and assist in the development of an orderly closure plan. HB 2489; CH. 715.

§§ 2.2-2679 and 23-9.6:1 amended. Supply and demand for nurses in Virginia. Adds to the duties of the State Council of Higher Education the responsibility for developing, in cooperation with institutions of higher education, the Board of Nursing, and the Advisory Council on the Future of Nursing in Virginia, a strategic statewide plan to ensure an adequate supply of nurses in Virginia. The Council is also directed to recommend to the Governor and the General Assembly such changes in public policy as may be necessary to meet the state's current and future need for essential nursing services. The Advisory Council's statute is amended to require it to develop recommendations to resolve issues pertaining to nurse education, recruitment, and retention and to report its recommendations to and cooperate with the State Council of Higher Education and the Board of Nursing in the development of a strategic statewide plan to ensure an adequate supply of nurses. HB 2818; CH. 725.

§ 23-9.9:01 added. Higher education; reports of expenditures of state funds. Directs the governing body of each public institution of higher education to provide the State Council of Higher Education annual data indicating the apportionment and amounts of its expenditures by category, including academic costs, administration, research, and public service, as defined by the State Council. The State Council must then compile and submit a report of such data annually to the Governor and the General Assembly. HB 1704; CH. 184.

§ 23-38.55 amended. Senior Citizens Higher Education Act; emergency. Removes from the definition of "senior citizen" the reference to the income restriction and restores

seniors' right to audit courses and take noncredit courses without charge regardless of income. During the 2002 Session, the \$15,000 income restriction was increased from \$10,000 to \$15,000; however, the income restriction was erroneously added to the definition. The bill contains an emergency clause. HB 1868; CH. 700 (effective 3/19/03).

§§ 23-50.16:12, 23-288, and 23-298. See § 25.1-100; SB 1007.

§§ 23-74 and 23-75 amended. **The University of Virginia's Board of Visitors; emergency.** Requires the appointment of a rector to preside at the meetings, and a vice-rector to preside in the absence of the rector. Other duties may be performed by the rector and the vice-rector, as the board may prescribe. The terms of the rector and vice-rector will be for two years, commencing on July 1 of the year of appointment and expiring on June 30 of the year of the expiration of their terms. The board may also appoint a substitute pro tempore, as provided in its bylaws, to preside in the absence of the rector and the vice-rector. Vacancies in the offices of rector and vice-rector may be filled by the board for the unexpired term. The membership of the executive committee, appointed to transact business in the recess of the board, must consist of not less than three nor more than six members, i.e., a possible increase of one member. Three enactment clauses at the end of the bill provide that (i) the first rector appointed to succeed the rector whose term expires on or before April 1, 2003, and the vice-rector appointed pursuant to this act will serve for terms that will expire on June 30, 2005; (ii) upon passage of this act, the board of visitors of the University of Virginia must appoint a vice-rector and must provide in its bylaws that a vice-rector will be appointed every 2 years and will automatically succeed the rector, upon the expiration of the rector's term; and (iii) an emergency exists and this act will be in force from its passage. HB 2837; CH. 655 (effective 3/18/03).

§ 23-77.3 amended. **The University of Virginia Medical Center; deemed licensure.** Deems the University of Virginia Medical Center to be a licensed hospital for purposes of other law relating to the operation of hospitals licensed by the Board of Health, for so long as the Medical Center maintains its accreditation by the Joint Commission on Accreditation of Health Care Organizations or any successor in interest thereof. The Medical Center will not be deemed to be a licensed hospital to the extent any law relating to licensure of hospitals specifically excludes the Commonwealth or its agencies. As an agency of the Commonwealth, the Medical Center will remain exempt from licensure by the Board of Health and subject to the provisions of the Virginia Tort Claims Act. The bill states that deemed licensure must not be construed as a waiver of the Commonwealth's sovereign immunity. HB 2013; CH. 701.

§ 23-174.4 amended. **Norfolk State University.** Changes the appointment date for members of the board of visitors from January 31 to June 30 of any year in which the relevant term expires. HB 2638; CH. 802.

§§ 23-276.2, 23-276.5, and 23-276.6 amended. **Higher education; approval of certain terms.** Authorizes the State

Council of Higher Education (SCHEV) to refuse to approve and to conditionally approve requests by nonpublic institutions of higher education to use terms deemed by SCHEV to be potentially misleading to consumers, students, or the general public regarding the particular institution's affiliation or association with any public institution of higher education in the Commonwealth. The Council shall, by regulation, designate such terms, which shall include, but shall not be limited to, "public university," "public college," and "community college." However, SCHEV cannot add conditions to revoke or suspend a prior approval of a name. The provision is applicable to those institutions that are otherwise granted exemptions to SCHEV's requirements. SB 1025; CH. 461.

§§ 23-287 and 23-288 amended. **Jamestown-Yorktown Foundation.** Grants voting privileges and Board of Trustee membership to any chairmen emeriti of the Jamestown-Yorktown Foundation Board of Trustees; transfers authority to appoint the members of the executive committee from the Board of Trustees to the chairman; provides that the Board chairman and vice-chairman shall be executive committee members; and, in a second enactment clause, provides that, for the period beginning with the election of officers at the fall 2002 semiannual board meeting through the election of officers at the fall semiannual meeting to be held in 2008, during the preparation for and commemoration of the 400th anniversary of the founding of Jamestown, the Board of Trustees shall elect two Co-Chairmen of the Board of Trustees. During this time, the Board of Trustees is to designate one of the two Co-Chairmen to exercise annually the duties of chairman. SB 1128; CH. 879.

TITLE 24.2. ELECTIONS.

§§ 15.2-408, 15.2-3604, 15.2-3831, 24.2-101, 24.2-106, 24.2-107, 24.2-111, 24.2-114, 24.2-115, 24.2-116, 24.2-209, 24.2-216, 24.2-226, 24.2-228.1, 24.2-306, 24.2-310, 24.2-404, 24.2-405, 24.2-406, 24.2-415, 24.2-416.1, 24.2-423, 24.2-424, 24.2-444, 24.2-501, 24.2-522, 24.2-531, 24.2-533, 24.2-545, 24.2-604, 24.2-610, 24.2-611, 24.2-612, 24.2-622, 24.2-623, 24.2-624, 24.2-629, 24.2-635, 24.2-639, 24.2-642, 24.2-643, 24.2-646, 24.2-649, 24.2-651, 24.2-651.1, 24.2-652, 24.2-653, 24.2-659, 24.2-662, 24.2-668, 24.2-669, 24.2-671, 24.2-675, 24.2-707, 24.2-711, 24.2-712, 24.2-1002, 24.2-1003, 24.2-1004, and 24.2-1009 amended; § 24.2-656 repealed. **Elections; administration of elections and election procedures; penalties.** Incorporates numerous clarifications and revisions in the election laws, including changes in the process for filling vacancies, financing local electoral boards and staffs, registering voters, nominating candidates, conducting elections, merging the registered voter lists and pollbooks, and voting absentee. SB 1107; CH. 1015.

§ 24.2-106.1 added. **Solicitation of signatures for nominating petitions by electoral board members and staff.** Prohibits the solicitation of signatures for nominating petitions

for candidates for public office by electoral board members and staff in any building owned or leased by the county or city served by the electoral board. HB 2710; CH. 271.

§§ 24.2-112 and 24.2-115 amended. Elections; assistants to and employees of general registrars; officers of election. Provides that an unpaid or paid assistant registrar or an officer of election must be a qualified voter of the Commonwealth but does not need to be a qualified voter of the locality in which he serves as an assistant registrar or officer of election. Under current law, only paid assistant registrars are not required to be qualified voters of the locality in which they serve. HB 1422; CH. 232.

§ 24.2-303.2 added. Senatorial districts. Makes adjustments in certain senatorial district boundaries in order to conform the Senate lines to new local election precinct and district lines and avoid splitting the new local precincts between senatorial districts. The bill continues to name 2000 census precincts in order to be consistent with the district descriptions for all other districts as found in § 24.2-303.1. Boundary line adjustments are made within Brunswick, Buckingham, Fairfax, Goochland, and York Counties and the Cities of Franklin, Hampton, Hopewell, and Suffolk. Technical adjustments affect the First, Second, Third, Tenth, Twelfth, Thirteenth, Fifteenth, Sixteenth, Eighteenth, Twenty-fifth, Thirty-fifth, Thirty-seventh, and Thirty-ninth Districts. All districts are within the plus or minus two percent deviation from total population equality standard used in drawing new districts in 2001. This bill contains an emergency clause. SB 792; CH. 824 (effective 3/22/03).

§ 24.2-304.02 added. House of Delegates districts. Makes technical adjustments in the House of Delegates lines to conform legislative lines to new election district and precinct lines in several localities. All districts remain within the 2.0 percent population deviation standard followed in the 2001 redistricting. Adjustments are made within the Counties of Albemarle, Amherst, Bedford, Brunswick, Caroline, Fluvanna, Hanover, King William, and Prince William and the Cities of Chesapeake, Franklin, Hopewell, Norfolk, and Suffolk. Districts 19, 22, 23, 24, 25, 31, 51, 54, 55, 57, 58, 59, 61, 62, 64, 74, 75, 76, 77, 79, 87, 89, 97, 98, and 99 are affected. This bill contains an emergency clause. HB 2197; CH. 903 (effective 3/22/03).

§ 24.2-404.2 repealed. National Voter Registration Act Coordinating Committee. Abolishes the National Voter Registration Coordinating Committee. The Committee was formed in 1999 as a result of a Joint Legislative Audit and Review Commission study of the State Board of Elections. No recommendation has ever emerged from the Committee because of the independent action initiated by the State Board of Elections and other agencies to resolve problems relating to implementation of the National Voter Registration Act. The duties previously envisioned for the Committee are currently being carried out by staff in the Department of Motor Vehicles and the Office of the Secretary of Health and Human Resources. This bill is identical to legislation recommended by the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies,

Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 2145; CH. 50/SB 750; CH. 20.

§ 24.2-415 amended. Notice of times and locations for registration. Deletes the requirement that the general registrar shall give notice each January of the schedule for voter registration times and locations for the calendar year by posting the notice at the courthouse and publishing it in a newspaper with general circulation in the county or city. The bill retains the requirements for published notice of the registration times and locations on the final day to register before each election. The bill adds publication on the official website for the county or city as a means of giving notice for certain additional registration sites and times. The bill specifies that notice is not required for the general registrar's regular office hours and in certain other situations. HB 1590; CH. 969.

§ 24.2-435 amended. Retention of cancelled voter registration records. Reduces the current four-year retention requirement to two years except for registrations cancelled because the voter has moved to another state or because of changes submitted by the voter. HB 1587; CH. 238.

§§ 24.2-506, 24.2-521, and 24.2-543 amended. Voter petition requirements for independent candidates, primary candidates, and groups supporting presidential candidates. Deletes the requirement now applicable to petitions for candidates for statewide offices that a voter's signature on the petition must be witnessed by a qualified voter who is a resident of the same or a contiguous congressional district as the voter signing the petition. With this change, the witness may be a qualified voter and resident in any congressional district in the Commonwealth. HB 1508; CH. 477.

§§ 24.2-515 and 24.2-544 amended. Presidential primaries. Sets the presidential primary date as the second, rather than the last, Tuesday in February. HB 2568; CH. 823/SB 959; CH. 815.

§ 24.2-541 amended. Printing ballots after the death, withdrawal, or disqualification of a political party nominee. Provides that notice of the withdrawal or disqualification of a party nominee must be given to election officials at least 60, rather than 45, days before the general election in order to have ballots for the election either printed or reprinted with the names of any replacement party candidate or new candidates who qualify for the ballot. HB 1437; CH. 476.

§ 24.2-542.1 added. Nominations and ballots for presidential elections. Extends the statutory deadline for a political party to file the names of its presidential and vice-presidential candidates and electors with the State Board of Elections if its national convention is being held after the deadline. The present deadline is the seventy-fourth day before the election (August 20, 2004). HB 2835; CH. 808.

§ 24.2-604.2 added. Polling places; prohibited area; emergency situations. Permits the local electoral board, with the concurrence of the State Board, to modify the distance requirements that define the prohibited area around a polling place in

the event of a state of emergency declared by the Governor or President. HB 1643; CH. 241.

§ 24.2-653 amended. Conditional votes; identification requirement. Provides that a voter who is not listed on the precinct registered voter list and seeks to cast a conditional ballot must provide one of the forms of identification required of voters or sign a statement that he is the named registered voter who he claims to be, in lieu of presenting one of the listed forms of identification. The bill requires an officer of election to note on the green envelope in which the conditional ballot is placed that the voter signed a statement in lieu of showing identification. HB 2198; CH. 984.

§ 24.2-683 amended. Special elections to fill vacancies in offices; notice of election. Provides that the secretary of the electoral board of each county or city participating in a special election to fill a vacancy may provide public notice of the special election by posting the writ on the official website for the locality as an additional, alternative means of public notice in lieu of either posting copies of the writ in 10 public places or publishing the writ in a newspaper. SB 702; CH. 155.

§§ 24.2-701, 24.2-706, and 24.2-707 amended. Absentee ballot applications and procedures. Provides that an applicant for an absentee ballot who applies in person when the printed ballot for the election is available may choose, if at least five days remain before the election, to have the absentee ballot mailed to him rather than voting the absentee ballot in person at the general registrar's office or other authorized site. Current law specifies that an applicant who applies in person for an absentee ballot must vote in person at that time and does not allow election officials to mail the ballot to the applicant. HB 1589; CH. 478.

§ 24.2-706 amended. Absentee ballot procedures. Clarifies instructions on the absentee ballot return envelope regarding the absentee voter's full name and Virginia residence address. HB 1854; CH. 247.

§§ 24.2-801, 24.2-802, 24.2-805, and 24.2-814 amended; § 24.2-801.1 added. Recounts and contests of elections; presidential elections. Revises the procedures for a recount and contest following a presidential election to shorten the timetable for both proceedings. The revised timetable will permit completion of the proceedings in time to comply with the federal law deadline for states to complete such procedures. Under that federal law, if the state law provides for a final decision on a presidential election at least six days before the date the electors are to meet, the state's determination is conclusive and cannot be challenged. The bill does not affect recount and contest proceedings in other elections. HB 2635; CH. 268.

§§ 24.2-904, 24.2-906, 24.2-914, and 24.2-920 amended. Campaign Finance Disclosure Act; certain forms, filings, and reporting requirements. Provides that candidates who seek reelection to the same office are not required to close out their campaign account and file new papers for their campaign for reelection to the same office but shall file their reports for

each election cycle. An election cycle approximates the term of office. HB 1862; CH. 248.

§ 24.2-905.1 added. Campaign finance disclosure; separate candidate committee account to comply with federal campaign finance law requirements. Permits a candidate to maintain a separate account from his campaign account to demonstrate compliance with federal law requirements such as contribution limits and prohibitions against corporate donations. The proposal is designed to allow federal candidates and officeholders to support state and local candidates and establish their compliance with federal law restrictions on campaign contributions. The bill allows funds held in a federal compliance account to be transferred to an interest bearing account as can be done with funds in a regular campaign account. The bill requires the filing of all state-required campaign finance disclosure reports on a consolidated basis for both the basic campaign account and the special federal compliance account. HB 1542; CH. 967

§ 24.2-910.1 added. Political committees advocating passage or defeat of referenda; disclosure. Requires a political committee to comply with the requirements of the Campaign Finance Disclosure Act and file a statement of organization and contribution and expenditure reports if the committee makes expenditures in a calendar year to advocate the passage or defeat of (i) a statewide referendum in excess of \$10,000, (ii) a referendum held in two or more counties and cities in excess of \$5,000, and (iii) a referendum held in a single county or city in excess of \$1,000. The bill modifies the requirements for the statement of organization, requires a separate account be maintained for expenditures related to a referendum, and exempts advertisements by such committees from certain disclosure statement requirements. HB 2304; CH. 257.

§ 24.2-914.1 amended. Campaign Finance Disclosure Act; mandatory electronic filing of reports; political committees. Requires political committees (including PACs and political party committees subject to the Act's reporting requirements) to file campaign finance reports electronically in accordance with State Board of Elections standards. Exceptions are made for county or city political party committees that file reports locally and for political committees that do not accept contributions or make expenditures in excess of \$10,000 in any calendar year. The bill provides for a filing deadline extension in the event of a failure in the computer and electronic filing system. HB 1693; CH. 242.

§ 24.2-923 amended. Campaign finance disclosure reports; filing schedule for certain persons and political committees. Revises current filing schedule for political committees. In lieu of the present schedule of six reports per year, the bill requires semi-annual reports and requires pre-election and large contribution reports, if the committee is active with respect to the specific election. HB 2196; CH. 256.

§ 24.2-927 amended. Campaign finance disclosure reports, failure to file and late filings, and exceptions. Authorizes the Secretary of the State Board of Elections to extend filing deadlines for a reasonable period for any candidate who serves as

his own treasurer and is called to active duty during a reporting period. HB 2836; CH. 726.

§§ 24.2-942 and 24.2-943 amended. **Basic requirements for political campaign advertisements.** Modifies the size requirement for the disclosure statement that must be printed on "print media" political campaign advertisements under the "Stand by Your Ad" law enacted in 2002. The law as enacted requires that the disclosure statement must constitute five percent of the height of any "print media" advertisement. The bill provides that the disclosure statement shall be "displayed in a conspicuous manner." The bill also specifically includes bumper stickers in the definition of "print media" and exempts novelty items such as pens, pencils, magnets, and buttons from the disclosure statement requirement. This bill contains an emergency clause. HB 1586; CH. 237 (effective 3/16/03).

TITLE 24.2. MISCELLANEOUS - ELECTIONS.

Federal campaign and political committees; comity. Provides for the regulation of federal campaign and political committees to the extent that federal law regulates Virginia campaign and political committees. The State Corporation Commission and the state Department of Taxation are given responsibilities for the enforcement of this law. HB 1644; CH. 890.

TITLE 25. EMINENT DOMAIN.

§§ 25-46.1 through 25-254. See § 25.1-100; SB 1007.

§ 25-46.5 amended. **Eminent domain; copy of title report.** Requires any condemnor to provide to property owners a copy of the report of status of title prepared in connection with the acquisition of property. The condemnor is required to conduct a title examination of the property prior to making an offer to acquire it. If the Commonwealth Transportation Commissioner is the condemnor, the owner is currently entitled to receive a copy of the title report. SB 995; CH. 627.

TITLE 25.1 EMINENT DOMAIN.

§§ 2.2-2286, 5.1-2.5, 5.1-34, 5.1-160, 10.1-114, 10.1-201, 10.1-635, 10.1-649, 10.1-1127.1, 10.1-1402, 10.1-1432, 10.1-1446, 15.2-729, 15.2-1902, 15.2-1904, 15.2-1905, 15.2-1906, 15.2-2109, 15.2-2115, 15.2-2140, 15.2-2146, 15.2-3221, 15.2-4518, 15.2-5114, 15.2-5343, 15.2-5367, 15.2-5425, 15.2-5807, 16.1-319, 21-118, 21-248, 22.1-126.1, 22.1-127, 23-50.16:12, 23-288, 23-298, 28.2-628, 32.1-193,

33.1-89, 33.1-91, 33.1-95, 33.1-95.1, 33.1-98, 33.1-120, 33.1-121, 33.1-124, 33.1-128, 33.1-132, 33.1-134, 33.1-238, 33.1-422, 33.1-443, 36-27, 36-49.1:1, 45.1-161.320, 55-201.1, 56-49, 56-347, 62.1-98, 62.1-136, and 62.1-150 amended; §§ 15.2-1901.1, 15.2-1907 through 15.2-1916, and 25.1-100 through 25.1-421 added; §§ 25-46.1 through 25-254 repealed. **Recodification of Title 25; eminent domain; condemnation.** Recodifies Title 25 as Title 25.1. In accordance with § 30-152, the Virginia Code Commission, in 2002, undertook the recodification of Title 25. Title 25 establishes the general procedure pursuant to which authorized entities exercise the power to acquire property pursuant to the exercise of the power of eminent domain. Title 25 has not been recodified since the adoption of the Code of Virginia of 1950. The Virginia Code Commission has rewritten and combined sections or parts of sections to clarify provisions and to eliminate archaic, obsolete or redundant language. Additionally, certain substantive changes are made, many of which reflect current practices or eliminate inconsistencies between provisions. Title 25.1 consists of four chapters. Chapter 1 contains general provisions applicable to the entire title, including certain definitions. Chapter 2 sets forth the general eminent domain procedure. Chapter 3 establishes in this title a "quick-take" procedure, under which defeasible title vests in the condemnor upon the filing of a certificate or the deposit of funds with the court. This procedure is based on one in Title 33.1. Currently, several types of condemnors are authorized to use the process to be followed by the Commonwealth Transportation Commissioner, and the Code Commission concurred that a better course was to establish a separate provision in Title 25.1 to be followed by those entities that now can use such process. Chapter 4 sets out statutory provisions that generally comport with the federal Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1972. Existing Chapter 2 of Title 25, which deals with the acquisition of waterworks systems by local governments, is relocated to Title 15.2. Changes to the Commonwealth Transportation Commissioner's "quick-take" procedure incorporate clarifying and technical changes that are reflected in the parallel provision in proposed Chapter 3 of Title 25.1. SB 1007; CH. 940.

TITLE 26. FIDUCIARIES GENERALLY.

§ 26-4. See § 8.01-606; HB 1921.

§§ 26-8, 26-10, and 26-10.1 amended. **Commissioners of accounts.** Requires that a commissioner of accounts, deputy commissioner of accounts and assistant commissioner of accounts be an attorney. The Judicial Council, which recommended this bill, is not aware of any persons currently holding such positions who are not attorneys. HB 1920; CH. 194.

§§ 26-13, 26-15, and 26-20 amended. **Failure to file inventory.** Requires a commissioner of accounts to report to the Virginia State Bar any fiduciary who is also an attorney and

who fails to file a proper inventory or account of a foreclosure after being summonsed to do so. This is consistent with the current obligation of a commissioner to report a fiduciary who is also an attorney and who does not file a proper account for an estate, trust, guardianship, or conservatorship. The bill also updates language in § 26-20. This bill is a recommendation of the Judicial Council. HB 1919; CH. 193.

§ 26-17.9 amended. Commissioner of accounts; vouchers and statement of assets. Provides that when a fiduciary seeks to use a check as a voucher or receipt, a copy of the front side of the check and the periodic statement from the financial institution showing the check number and amount that coincides with the copy shall be sufficient evidence, in lieu of a copy of both sides of the check showing that it has been negotiated, provided the copy meets the requirements of the exception to the best evidence rule in § 8.01-391. The bill also allows the commissioner of accounts to require a fiduciary to exhibit the original check or proper voucher for a specific payment or for distributions to beneficiaries or distributees. HB 2096; CH. 201.

TITLE 27. FIRE PROTECTION.

§ 27-6.2. See § 15.2-709.1; HB 2031.

TITLE 28.2. FISHERIES AND HABITAT OF THE TIDAL WATERS.

§ 28.2-106.2 added. State water safety zones and restricted areas; penalty. Allows the Virginia Marine Resources Commission after consultation with the U.S. Coast Guard and U.S. Corps of Engineers to establish, by regulation, state water safety zones or restricted areas in the tidal waters of the Commonwealth wherein public access shall be restricted or prohibited in the interest of public safety. Such zones or areas shall be consistent with federal law and become effective immediately upon establishment by the Commission. The regulations are exempted from the Administrative Process Act, and shall be enforced by the Virginia Marine Police. In times of official state or national emergency, the Governor is authorized to adjust the boundaries of safety zones or restricted areas by executive order. Violations of these regulations are Class 1 misdemeanors. This bill has an emergency clause. SB 1186; CH. 389 (effective 3/16/03).

§ 28.2-200 amended. Haul seine nets. Changes the definition of a haul seine net. The current definition is ambiguous and has resulted in confusion in the proper setting and use of the gear. It has also forced haul seiners to work in shallow waters where submerged aquatic vegetation (SAV) beds are located. Changing the definition will allow the Virginia Marine Resources

Commission to prepare a haul seine fishery management plan that recognizes a more appropriate use of the gear, which will minimize the impact of the net on the SAV beds. HB 2239; CH. 604.

§ 28.2-515 amended. Harvesting of oysters from private oyster beds. Allows Virginia Marine Resources Commission to grant a special exemption to allow harvesting of oysters from private oyster beds one hour prior to sunrise from June 15 to September 1, with 24 hours' notice. Currently, oysters may be harvested from sunrise to sunset, except on Sunday. HB 1504; CH. 778.

§ 28.2-628. See § 25.1-100; SB 1007.

§ 28.2-1100. See § 10.1-105; HB 2393/SB 914.

§ 28.2-1203 amended. Private piers. Establishes size specifications for the Virginia Marine Resources Commission private pier permit exemption. No permit will be required if (i) the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers, (ii) the piers do not exceed six feet in width, (iii) any L or T head construction platforms or protrusions do not exceed 250 total square feet, and (iv) the piers are determined not to be a navigational hazard by the Commission. HB 1661; CH. 973

TITLE 29.1. GAME, INLAND FISHERIES AND BOATING.

§§ 29.1-101 and 29.1-103 amended; § 29.1-113 added. Admittance, parking and use at Department-owned facilities; penalty. Allows the Department of Game and Inland Fisheries to establish admittance, parking, or other use fees at Department-owned facilities. Any daily fee established by regulation cannot exceed \$3; any annual fee cannot exceed the cost of an annual state resident fishing or hunting lounge. Such fees will not be assessed for the use of Department-owned boat ramps. Anyone violating this section may be assessed a civil penalty of \$50 by the Department, to be paid into the Game Protection Fund. Any person 16 years old or younger, or any person holding a valid hunting, trapping, or fishing permit, or a current certificate of boat registration issued by the Department does not have to pay these fees. SB 786; CH. 562.

§§ 29.1-303 and 29.1-303.1 amended. Notice of release on parole. Requires the Parole Board to notify, by certified mail, the attorney for the Commonwealth in the jurisdiction where an inmate was sentenced, at least 21 business days prior to an inmate's release on discretionary parole if the inmate was convicted of a felony and sentenced to a term of 10 or more years. Currently, the Board is required to notify of release for any type of parole, not solely discretionary parole. HB 1663; CH. 120.

§ 29.1-309.2 added. **Lifetime trapping license.** Establishes a special lifetime trapping license for residents age 65 or over. The fee for the license is \$10. HB 2419; CH. 145.

§ 29.1-323 amended. **Sale of hunting and fishing licenses.** Relieves a clerk of a circuit court from the responsibility of selling hunting and fishing licenses if the Board of Game and Inland Fisheries has designated an agent to sell hunting and fishing licenses in the county or city in which the clerk is located. Currently, it is within the discretion of the Board whether to relieve the clerk from the responsibility of selling such licenses. SB 726; CH. 92.

§§ 29.1-330, 29.1-332, and 29.1-333 amended. **Voluntary contributions by hunters.** Directs the Department of Game and Inland Fisheries to allow persons, when they purchase hunting licenses and permits, to voluntarily contribute two dollars to Hunters For The Hungry. HB 1874; CH. 737/SB 808; CH. 95.

§§ 29.1-352, 29.1-354, 29.1-355, and 29.1-356 amended. **Damage stamp program.** Allows property owners to collect funds from the Damage Stamp Program to compensate them for damage to their crops, fruit trees, commercially grown Christmas trees, nursery stock, livestock, or farm equipment caused by elk. Currently, funds are made available to property owners whose land has been damaged by either deer or bear. HB 2157; CH. 137.

§ 29.1-529 amended. **Deer kill permit.** Authorizes the Director of the Department of Game and Inland Fisheries to issue a deer kill permit to landowners whose residential plants have been damaged by deer. The Director may charge a permit fee not to exceed the actual costs. HB 1765; CH. 123.

§ 29.1-529 amended. **Authorization to kill deer or bear.** Prohibits a person who has been convicted of violating any hunting or trapping law or regulation from being designated as a shooter authorized to kill deer or bear found damaging fruit trees, crops, livestock, or personal property or creating a hazard to aircraft or motor vehicles. The Director of the Department of Game and Inland Fisheries shall impose this restriction for at least two and up to five years after the applicant's most recent conviction, depending upon the nature and severity of recent and past violations. No person shall be authorized as the shooter during a period of license suspension or revocation. Currently, any person found guilty of violating any provision of Title 29.1, Game, Inland Fisheries and Boating, is forever prohibited from being an authorized shooter. HB 2113; CH. 135.

§§ 29.1-571 through 29.1-577 added. **Nonindigenous Aquatic Nuisance Species Act.** Creates the Nonindigenous Aquatic Nuisance Species Act within the Department of Game and Inland Fisheries. This bill declares the zebra mussel, the quagga mussel, and northern snakehead fish as nonindigenous aquatic nuisance species. This bill authorizes the Board of Game and Inland Fisheries to declare other nonindigenous aquatic nuisance species if it finds that the presence of such nonindigenous aquatic species in state waters poses or is likely

to pose a significant threat of harm. This bill makes it illegal to knowingly import, possess, transport, sell, purchase, give, receive, or introduce into state waters any nonindigenous aquatic nuisance species without a permit from the Director. Permits may be issued for research by recognized academic institutions or government agencies upon receiving satisfactory assurance that adequate safeguards will be maintained to prevent the escape or introduction of any such species into state waters. Any person who violates this article or who knowingly obstructs the Director in carrying out his duties shall (i) be subject to a civil penalty of not more than \$25,000, and (ii) be liable for the costs of investigation, control, and eradication incurred by any state agency or local government of the Commonwealth as a result of such unlawful conduct. This bill contains an emergency clause. HB 2752; CH. 446 (effective 3/16/03).

§ 29.1-744.4 added. **Waterway "pass-through" zones; local ordinances; penalties.** Allows localities, after notifying the Department of Game and Inland Fisheries, to enact ordinances establishing "pass-through" zones in portions of waterways within their territorial limits where watercraft traffic congestion routinely poses a significant safety risk to persons in the designated area. The ordinance must require watercraft operators to maintain reasonable and safe speeds and must prohibit them from anchoring, loitering or engaging in recreational activities while in such zone. The locality must clearly mark pass-through zones with buoys or other markers, and may provide for enforcement and penalties not exceeding a Class 4 misdemeanor. HB 1525; CH. 780.

§ 29.1-748.1 added. **Personal watercraft; local ordinances; penalty.** Allows the City of Virginia Beach, by population bracket, to enact ordinances establishing minimum distances from the shoreline that personal watercraft may be operated in excess of the slowest possible speed required to maintain steerage and headway. Such distances shall be at 100 feet from the shoreline and 200 feet from swimmers in ocean waters. The bill provides for local enforcement and penalties not to exceed Class 4 misdemeanors. HB 1526; CH. 117.

TITLE 29.1. MISCELLANEOUS - GAME, INLAND FISHERIES AND BOATING.

Use of rifles in King George County. Repeals the law that prohibits an individual from hunting any wild bird or animal in King George County with a rifle capable of shooting any cartridge more powerful than commercially loaded .22 caliber rifle cartridges. HB 1491; CH. 689.

Waterfowl sanctuaries and blinds. Repeals an Act of Assembly that established wildlife sanctuary in areas of what was then Princess Anne County and now is Virginia Beach. This local act is no longer needed because Virginia Beach has adopted an ordinance that prevents hunting in these areas. The bill also repeals the authority of Accomack and Northampton Counties to issue duck blind stamps. HB 1481; CH. 734.

TITLE 30. GENERAL ASSEMBLY.

§§ 30-10 and 30-34.2:1 amended. Attendance of witnesses before and production of evidence to certain legislative bodies. Provides that the chief officer of the Virginia Capitol Police may serve process for compelling (i) witnesses for appearance before or (ii) documents to be produced to, the Senate or House of Delegates or committees or commissions thereof. SB 1343; CH. 231.

§§ 30-19.04 and 30-19.1:2. See § 58.1-3651; HB 1750.

§ 30-19.1:3. See § 58.1-3; HB 2525/SB 743.

§ 30-19.1:9 added. Creation of state boards and commissions; duration. Provides that after January 1, 2003, all bills creating an advisory board, council, commission or other collegial body in the executive branch of state government shall contain a provision requiring the expiration of such body three years after its creation. HB 2115; CH. 793.

§ 30-34.2 amended. Capitol Hostesses. Changes the name of the Capitol Hostesses to the Capitol Tour Guides. The new name is intended to be gender neutral and inclusive of current staff. HB 1506; CH. 692.

§ 30-34.2:1 amended. Capitol Police. Authorizes the Legislative Support Commission to assign the jurisdiction of any property of the Commonwealth to the Capitol Police. The jurisdiction of the Capitol Police is also clarified to include all property leased by the Commonwealth. HB 1563; CH. 588.

§§ 30-34.4:1 and 30-34.6 amended; § 30-34.7 repealed. Journals and documents of the Senate and House of Delegates. Removes the requirement for the binding of the Senate and House of Delegates documents. The bill also requires that persons eligible to receive copies of the House and Senate Journals must submit a written request for them. The number of copies of the Journals reserved for the Division of Legislative Automated Systems and The Library of Virginia has been changed to reflect the current practice and other controlling laws. HB 2507; CH. 264.

§§ 30-34.10:2 and 30-146. See § 2.2-4014; HB 2550.

§ 30-34.15 added. General Assembly; submission of reports and executive summaries. Establishes a recordkeeping system for reports required or requested by statute or resolution to be submitted to the legislative branch. For reports submitted only to the General Assembly, the Division of Legislative Automated Systems is designated as the recipient for the General Assembly. For reports submitted to specific persons or entities within the legislative branch, the reporting entity must submit a copy of the report to the Division. The reports to the Division must contain a separate executive summary and will be posted on the General Assembly's website. SB 1036; CH. 941.

§ 30-111 amended. General Assembly Conflicts of Interests Act; disclosure form. Requires disclosure by General Assembly members of certain relationships with lobbyists. The bill

provides that such disclosure (i) does not constitute a waiver of the attorney-client or other privilege for third parties, (ii) requires a waiver of any attorney-client or other privilege for a third party, or (iii) is not necessary for nonfinancial indirect associations. HB 2515; CH. 610.

§§ 30-114 and 30-116 amended. Ethics Advisory Panel. Provides that the Division of Legislative Services may assist the Panel during its preliminary investigation stage to save the need for outside counsel. Clarifies that the Panel must advise the complainant, if the complaint is disposed of during the preliminary investigatory stage. HB 2654; CH. 649.

§ 30-133 amended. Report of the Auditor of Public Accounts. Requires the Auditor of Public Accounts to report annually on all audits and oversight responsibilities performed for the most recently ended fiscal year to a joint meeting of the Senate Finance, House Finance and House Appropriations Committees on the same day that the Governor presents the Executive Budget to the General Assembly or at the direction of the respective chairman during an earlier scheduled committee meeting. HB 2666; CH. 270.

§§ 2.2-218, 2.2-220, 2.2-2424, 2.2-2503, 2.2-2506, 2.2-2628, 2.2-2666.1, 2.2-2705, 2.2-5601, 3.1-1108, 10.1-1018, 18.2-271.2, 20-108.2, 22.1-337, 22.1-354.1, 30-156, 30-173, 30-182, 32.1-73.7, 51.5-39.2, 56-579, 56-581.1, 56-585, 56-592, 56-592.1, 56-596, 62.1-69.34, 62.1-69.35, 62.1-69.38, and 62.1-69.43 amended; §§ 30-201 through 30-217, 62.1-69.35:1, and 62.1-69.35:2 added; §§ 2.2-2709, 2.2-2710, and 56-595 repealed. Clarifications for certain collegial bodies. Conforms certain collegial bodies on which legislative members serve to meet the legislative guidelines adopted by the Joint Rules Committees. These bodies include: the Virginia-Israel Advisory Board, the Special Advisory Commission on Mandated Health Insurance Benefits, the Virginia Advisory Commission on Intergovernmental Relations, the Council on Indians, the Virginia Military Advisory Council, Virginia War Memorial Foundation, the Southern States Energy Board, the Tobacco Indemnification and Community Revitalization Commission, the Virginia Land Conservation Board of Trustees, the Commission on the Virginia Alcohol Safety Action Program, the Child Support Guidelines Review Panel, the Education Commission of the States, the Western Virginia Public Education Consortium, the Virginia State Crime Commission, the Commission of Senate and Commission of House of Delegates on Interstate Cooperation, the Small Business Commission, the Legislative Transition Task Force and Consumer Advisory Board, the Virginia Office for Protection and Advocacy, the Virginia Roanoke River Basin Advisory Committee, the Roanoke River Basin Bi-State Commission, and the Tax Administration Delegation. The World Trade Alliance of the Blue Ridge is repealed due to inactivity. Obsolete cross references to the Virginia Chesapeake Bay Partnership Council and the Virginia Council on Coordinating Prevention are removed from the Code because these entities were abolished in 2001. This bill is a recommendation of the year-long study by the Subcommittee on Legislative Guidelines of the Joint Rules Committee. SB 1315; CH. 885.

§ 30-168 amended; §§ 30-168.1 through 30-168.5 added; § 30-169 repealed. Joint Commission on Health Care. Adds the responsibilities of the Joint Commission on Behavioral Health Care, which will sunset on July 1, 2003, to the Joint Commission on Health Care. To ensure continuity, the bill increases the membership of the Joint Commission on Health Care by two, adding one member of the House of Delegates and one member of the Senate who were previous members of the Joint Commission on Behavioral Health Care. The bill also provides for a special task force of the Commission to consider issues related to behavioral health care. Provisions relating to the membership, payment of the compensation and expenses, meetings, chairmanship, and reporting requirements have been modified to incorporate standardize language for legislative commissions as recommended in the legislative guidelines adopted by the Joint Rules Committee. SB 1253; CH. 633.

§ 30-192 amended; §§ 30-192.1 and 30-192.14 added. Dr. Martin Luther King, Jr. Memorial Commission. Authorizes the Dr. Martin Luther King, Jr. Memorial Commission to seek, receive, and expend gifts, grants, donations, bequests, and other funds in connection with its duties as directed by the Joint Rules Committee. This bill also establishes the Dr. Martin Luther King, Jr. Fund into which gifts, grants, donations, and other funds obtained by the Commission will be deposited to provide financial support for its work, including private funds to support the King Living History and Public Policy Center, which is also established by this bill. The Commission is required by law to establish a memorial to Dr. King in the Commonwealth, which the Center fulfills. The Center, among other things, will (i) perform public policy analysis and scholarly inquiry and writing; (ii) acquire and preserve records, oral histories, and memorabilia documenting Dr. King's relationship with and impact on the Commonwealth; (iii) make the programs, activities, and resources of the Center available to public and private schools and the public; and (iv) provide support for undergraduate and graduate study at the participating public and private institutions of higher education that comprise the Center. In addition, the bill contains several technical amendments that conform the statute to the new legislative guidelines adopted by the Joint Rules Committee, and an emergency clause to allow the Commission to receive and expend pending donations and contributions. This bill is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission. HB 2471; CH. 1035 (effective 5/1/03)/SB 827; CH. 1037 (effective 5/1/03).

§§ 30-201 through 30-208 added. Commission on Unemployment Compensation. Codifies the study of unemployment compensation, which has existed by resolution since 1977. The Commission shall have eight members, three from the Senate and five from the House, and staffing shall be provided by the Division of Legislative Services. The Commission shall have the power and duty to (i) evaluate the impact of existing statutes and proposed legislation on unemployment compensation and the Unemployment Trust Fund, (ii) assess the Commonwealth's unemployment compensation programs and examine ways to enhance effectiveness, (iii) monitor the

current status and long-term projections for the Unemployment Trust Fund, and (iv) report annually its findings and recommendations to the Governor and the General Assembly. SB 889; CH. 1038.

TITLE 32.1. HEALTH.

§ 32.1-11.1 amended. AIDS Advisory Committee. Abolishes an advisory committee to the State Board of Health known as the AIDS Services and Education Grants Program Advisory Committee. The Committee was established in 1989 to assist the Board in awarding acquired immunodeficiency syndrome services and education grants. The Committee is constituted on an ad hoc basis when there are new grants to award. The State Department of Health would continue to seek the advice of experts knowledgeable in HIV issues to assist with the administration of the grants process. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 805; CH. 453.

§§ 2.2-214.1 and 32.1-23.1 added. Prescription assistance mechanisms. Creates a special, nonreverting fund to be known as the Healthy Lives Prescription Fund, under the auspices of the Secretary of Health and Human Resources, to accept appropriations, donations, grants, and in-kind contributions to develop and implement programs that will enhance current prescription programs for citizens of the Commonwealth who are without insurance or the ability to pay for prescription drugs and to develop innovative programs to make such prescription drugs more available. The Commissioner of Health must create links from the Department of Health's website to the Department for the Aging's website and its affiliated sites pertaining to pharmaceutical assistance programs and pharmaceutical discount purchasing cards. The Commissioner of the Department for the Aging must cooperate with the Commissioner of Health by ensuring that such information is available on the Department for the Aging's website. The Commissioner of Health must also ensure that all clinical sites administered by local health Departments are provided with adequate information concerning the services of the Virginia Department for the Aging, including, but not limited to, the toll-free telephone number and website information on pharmaceutical assistance programs and pharmaceutical discount purchasing cards. Both commissioners must coordinate the dissemination of information to the public regarding any pharmaceutical discount purchasing card programs while maintaining a neutral posture regarding such programs. The Commissioner of Health must establish a toll-free number to be administered by the Department of Health that will provide recorded information concerning services provided by the Department for the Aging, the Virginia Area Agencies on Aging, and other appropriate organizations for senior citizens. A second enactment clause requires the Joint Commission on Health Care or any successor

in interest thereof to prepare a plan to establish the Health Lives Prescription Assistance Program to provide prescription drug benefits for low-income senior citizens and persons with disabilities, which must include consideration of the resources of both the public and private sectors. The plan will be prepared in cooperation with the Secretary of Health and Human Resources, the Virginia Health Care Foundation, pharmaceutical manufacturers, health care provider organizations, advocacy groups, and other interested parties. In preparing the plan, the Joint Commission on Health Care must review and incorporate, to the maximum extent possible, the conclusions of the Joint Commission on Prescription Drug Assistance. The plan must coordinate state, federal and private programs providing prescription assistance, including any programs the federal government may implement. The plan will be reported to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Education and Health by October 15, 2003. HB 2225; CH. 661/SB 1341; CH. 674.

§§ 32.1-27 and 32.1-125.01. See § 54.1-111; HB 1441/SB 1334.

§§ 54.1-3301 and 54.1-3408 amended; §§ 32.1-42.1 and 54.1-3307.3 added. Administering or dispensing of drugs; disaster or emergency. Permits the Commissioner to authorize unlicensed persons to administer or dispense drugs or devices in accordance with protocols established by the Commissioner when (i) the Governor has declared a disaster or a state of emergency caused by an act of terrorism or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. These persons shall administer or dispense all drugs or devices under the direction, control and supervision of the Commissioner. The bill requires the Commissioner to develop protocols, in consultation with the Department of Health Professions, that address the required training of persons and procedures for them to use in administering or dispensing drugs or devices. Also, the bill creates an exception to the Drug Control Act for this purpose. Finally, the bill permits the Board of Pharmacy to waive certain requirements when the Governor has declared a disaster or a state of emergency and it is necessary to permit the provision of needed drugs, devices and pharmacy services to the citizens of the Commonwealth. This bill is a recommendation of the Secure Virginia Panel. HB 2183; CH. 794 (effective 3/20/03).

§§ 22.1-271.3 and 32.1-45.1 amended. School board employees; consent to testing for blood-borne pathogens. Adds school board employees who are exposed to persons in a manner that may transmit HIV or hepatitis B or C to those individuals deemed to have consented to testing for infection with HIV or hepatitis B or C viruses and the release of test results to the exposed person. In addition, persons, including students, directly exposed to the body fluids of a school board

employee are also deemed to have consented to testing for infection with these viruses and the release of the test results to the exposed school board employee. If the person to be tested is a minor, consent for the testing shall be obtained from the parent, guardian or person standing in loco parentis. If consent is withheld, the school board may petition the juvenile and domestic relations district court for an order requiring the testing. Procedures for teacher exposure to student body fluids are set forth in § 22.1-271.3, which directs school boards to ensure that school personnel having contact with students receive training in the prevention and effects of blood-borne pathogens. This measure mirrors current requirements for health care providers and law-enforcement personnel. SB 659; CH. 1.

§ 32.1-46.1 amended. Protocol for testing children for elevated blood-lead levels. Mandates that the Board of Health require, in its protocol for testing children for elevated blood-lead levels, testing at appropriate ages and frequencies, when indicated. The present protocol provides criteria to determine that a child is not at risk of lead poisoning and testing is not required. Currently, the protocol also notes that testing "should" be conducted at certain intervals. Lead poisoning causes permanent neurological injury, particularly to young children, which can result in mental retardation and even death. During the past year, controversy concerning the effectiveness of merely recommending the testing has arisen. This bill is a recommendation of the Joint Subcommittee Studying Lead Poisoning Prevention. SB 1082; CH. 463.

§ 54.1-3408 amended; § 32.1-50.2 added. Administration of controlled substances by nurses. Provides that prescribers may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in accordance with policies and guidelines established by the Department of Health. The bill also provides that the State Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department, at the nurse's discretion, to possess and administer PPD to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department. HB 2302; CH. 515.

§ 32.1-71.02 amended. Notification of cancer patients of reports to the statewide cancer registry. Revises the requirements for notification of cancer patients of reports to the statewide cancer registry that must currently be implemented by the Commissioner of Health to require the physician diagnosing a malignant tumor or cancer, at such time and in such manner as considered appropriate by the physician, to notify each patient whose name and record abstract is required to be reported to the cancer registry that personal identifying information about him has been included in the registry as required by law. This provision authorizes the physician to notify, when the notice would be, in the opinion of the physician, injurious to the patient's health or well being, the patient's authorized representative or next of kin in lieu of notifying the patient. In addition, upon request to the statewide cancer registry, the patient whose personal identifying information has been

submitted to such registry has a right to know the identity of the reporter of his information to such registry. HB 1743; CH. 540/SB 1010; CH. 548.

§ 32.1-73.7. See § 30-156; SB 1315.

§§ 2.2-4002, 54.1-3303, 54.1-3401, 54.1-3408.01, and 54.1-3457 amended; § 54.1-3408.03 added; §§ 32.1-79 through 32.1-88 repealed. **Prescriptions for therapeutically equivalent drugs; Virginia Voluntary Formulary repealed.** Repeals the Virginia Voluntary Formulary---the Commonwealth's generic drug statutes---and replaces these archaic requirements with Drug Control Act provisions relating to the prescribing and dispensing of "therapeutically equivalent" (generic) drug products. This bill updates the law relating to prescribing and dispensing generic drugs, but provides few changes in prescribing and dispensing requirements. HB 1823; CH. 639.

§ 32.1-102.2 amended. **Certificate of public need; regulations authorizing a single application for all proposed cancer care center services.** Requires the Board of Health to include in the radiation therapy batch, applications, either combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy or nuclear imaging. A single application for a combination of radiation therapy and any or all of the other named services may be filed. HB 1621; CH. 72/ SB 1226; CH. 61.

§§ 8.01-225, 32.1-111.4, and 54.1-3408 amended. **Emergency medical services technician (EMTs) authorization to possess and administer epinephrine.** Requires the Board of Health's regulations on certification of emergency medical services technicians to allow certain levels of EMTs to possess and administer epinephrine in emergency cases of anaphylactic shock. Clarifying amendments are added to the Good Samaritan law and to the Drug Control Act to reinforce this authorization. SB 1224; CH. 1020.

§§ 9.1-202 and 32.1-111.10 amended. **State Emergency Medical Services Advisory Board.** Clarifies the membership of the State Emergency Medical Services Advisory Board, provides that any person appointed to the Advisory Board must be a member of the organization or group that he represents, changes the name of the State Fire Chiefs Association to the Virginia Fire Chief's Association, and makes technical corrections. In addition, provisions pertaining to the compensation and reimbursement of members and staff support for the Advisory Board have been added, pursuant to the new legislative guidelines adopted by the Joint Rules Committee. HB 1535; CH. 836.

§ 32.1-111.10 amended. **Health; emergency services.** Expands the State Emergency Medical Services Advisory Board by one member and adds a Virginia professional firefighter. HB 1756; CH. 1033.

§ 32.1-111.10 amended. **Health; State Emergency Medical Services Advisory Board.** Revises and clarifies the required and discretionary representation on the State Emergency Medi-

cal Services Advisory Board. The members of the Advisory Board are appointed by the Governor in accordance with this statute. Technical amendments are also provided. HB 2300; CH. 852.

§ 8.01-225 amended; § 32.1-111.14:1 repealed. **Automated external defibrillators; public-access defibrillation.** Eliminates the requirement for registration of automated external defibrillators by repealing § 32.1-111.14:1 and amends existing immunity provisions to be consistent with this deregulation of ownership and use of automated external defibrillators. The last subsection of the Good Samaritan statute (§ 8.01-225) is also amended to require that the public be urged to receive training on how to use cardiopulmonary resuscitation (CPR) and automated external defibrillators (AED) in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

In October 2002, the New England Journal of Medicine published a study of the use of automated external defibrillators by users with no prior training or duty to act in emergency situations. This study found that the untrained public can effectively use the automated external defibrillators. An automated external defibrillator is a medical device combining a heart monitor and a defibrillator that is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and of determining, without intervention by an operator, whether defibrillation should be performed and, upon determining that defibrillation should be performed, automatically charging and requesting delivery of an electrical impulse to an individual's heart. These instruments have become so sophisticated and user-friendly that even young children have been reported as using them to successfully save lives. This bill included an emergency clause. HB 1860; CH. 978 (effective 4/2/03)

§§ 32.1-116.1 and 32.1-127.1:03 amended. **Prehospital patient care reports; disclosure.** Authorizes licensed emergency medical services agencies to disclose prehospital patient care reports to law-enforcement officials upon request (i) when the patient is the victim of a crime or (ii) when the patient is in the custody of the law-enforcement officials and has received emergency medical services or has refused emergency medical services. This bill also includes technical amendments. SB 1250; CH. 471.

§§ 32.1-122.10:001 and 32.1-122.10:002 amended. **Health; local health partnership authorities.** Extends the sunset provision from July 1, 2003, to July 1, 2006, for local health partnership authorities. The bill also would require any local health partnership authority to report on an annual basis any programmatic initiatives to the Joint Commission on Health Care. HB 1695; CH. 63/SB 1068; CH. 70.

§§ 32.1-125.4 and 32.1-125.5 added. **Health; protection of complainants.** Applies to hospitals the same confidentiality and protection already available in nursing facilities regarding complainants who in good faith complain or provide information to any entity having responsibility for protecting the rights of patients of hospitals. HB 1814; CH. 309.

§§ 32.1-126.01 and 32.1-162.9:1 amended. Nursing home, home care organization and hospice program criminal records checks. Expands the list of crimes that are barriers to employment in home care organizations and hospice programs to be consistent with the barrier crimes currently provided for employment in nursing homes and assisted living facilities. HB 2402; CH. 517.

§ 32.1-127.1:03. See § 16.1-248.3; HB 2155.

§ 32.1-127.1:03 amended. Patient health records privacy; subpoenas duces tecum; emergency. Revises the subpoena provisions in the patient records law to provide consistency between the existing Virginia provisions and federal regulations promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996 relating to standards for security and privacy of protected health information. This bill requires that the return date for a subpoena duces tecum will be 15 days unless a court or administrative agency directs an earlier day and that a motion to quash must be filed within 15 days of the notice to the patient or the provider. The language of the notice that must be given to providers acknowledges that the patient or the patient's counsel has received a copy of the subpoena; that either the patient or the provider has the right to file a motion to quash; and as HIPAA requires, that the provider must not respond to the subpoena until he has received written certification from the party on whose behalf the subpoena was issued that the time for filing a motion to quash has elapsed and that no motion was filed or any filed motion has been resolved and the disclosures are consistent with this resolution. As provided in present law, upon receiving a notice that the patient has filed a motion to quash or if the provider files such motion, the provider must send the records to the court or administrative agency in a sealed envelope with a cover letter stating that confidential health records are enclosed and are to be held pending the court's ruling on the motion to quash. The sealed envelope and the cover letter must be placed in an outer envelope or package for transmittal. Explicit instructions are provided for the resolutions of motions to quash in terms of the disposition of the records and the certification that must be given to the provider, as follows: full disclosure and no records submitted under seal to the court or administrative agency to be returned or, if the provider has not responded to the subpoena, that he must respond with the records within 15 days of the subpoena or five days of the certification, whichever is later; no disclosure and return of all records submitted under seal to the court or, if the provider has not submitted records to the court or agency, that the provider must not respond to the subpoena; or limited disclosure and return of a portion of the records submitted under seal to the court or administrative agency or if the provider has not responded to the subpoena, that he must respond with the portion of the records that have been authorized to be disclosed within 15 days of the subpoena date or the five days of the certification. "Certification" is defined as "a written representation that is delivered by hand, by first-class mail, by overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting that all facsimile pages were successfully transmitted." This bill con-

tains an emergency clause. HB 2463; CH. 907 (effective 3/22/03).

§ 32.1-127.1:04 amended. Sharing of protected health information between state agencies. Expands the authority to share protected health information to include the Department of Rehabilitative Services and the Departments for the Aging, the Blind and Vision Impaired, and the Deaf and Hard-of-Hearing or any successors in interest thereof. Present law, enacted in 2002, was intended to clarify the authority of various state departments to obtain and the discretion of health care providers to disclose protected health information in compliance with the regulations promulgated by the federal Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended. The present statute covers the Departments of Health, Medical Assistance Services, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services. This provision extends this protection and authority to the other agencies within the purview of Virginia's Secretary of Health and Human Resources. The implementation of the 2002 provision has been estimated by the relevant auditors within the presently covered agencies to have saved the Commonwealth more than \$1 million since July 1, 2002. This provision is a recommendation of the Joint Subcommittee Studying Lead Poisoning Prevention. SB 1083; CH. 464.

§ 32.1-134.01 added. Health; perinatal depression. Requires each licensed nurse midwife and hospital providing maternity care to make available to each patient and relevant family members information on postpartum blues and perinatal depression (formerly called postpartum depression) prior to discharge. This information will be discussed with the maternity patient. HB 2310; CH. 647.

§ 54.1-2901 amended; § 32.1-145, 32.1-146, and 32.1-147 repealed. Health; practice of midwifery. Repeals Article 4 (§ 32.1-145 et seq.) of Chapter 5 of Title 32.1 and amends § 54.1-2901 to eliminate the registration and permitting to practice midwifery of individuals who are not registered nurses and were registered and permitted to practice midwifery in compliance with this law prior to January 1, 1977. HB 1961; CH. 641.

§§ 32.1-162.3 and 63.2-1806 amended. Licensure of hospice programs and facilities. Provides that any entity licensed as a hospice may concurrently hold a license as an assisted living facility and may provide hospice care to such residents. An entity licensed as an assisted living facility may concurrently hold a license as a hospice and provide hospice care. HB 2772; CH. 526.

§ 32.1-162.14 repealed. Home Care Services Advisory Committee. Abolishes the Home Care Services Advisory Committee. The Committee advises and makes recommendations to the State Board of Health regarding the regulations of home care organizations. The Committee has been inactive and has not met since 1994. An advisory committee convened by the State Department of Health carries out the functions of the Home Care Services Advisory Committee, including the provi-

sion for public participation. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 763; CH. 449.

§§ 32.1-164, 62.1-44.3, 62.1-44.18, and 62.1-44.19 amended.

Construction and operation of treatment works. Gives the State Water Control Board (SWCB) and the Department of Environmental Quality sole authority to regulate the construction and operation of sewage treatment plants, including the review and approval of the plans and specifications for such facilities. This means that the SWCB will issue the certificates to construct and operate the facility. Currently, this is the joint responsibility of the Board of Health and the SWCB. HB 2602; CH. 614.

§ 32.1-164.5 amended; §§ 32.1-164.6 and 32.1-164.7 added.

Land application of sewage sludge; requirements and regulations; study; report. Amends current biosolids land application law by establishing standard complaint and investigation procedures, including the maintenance of a searchable electronic database of complaints by the Virginia Department of Health (VDH). The bill requires nutrient management plans (NMPs) prepared by persons certified by the Virginia Department of Conservation and Recreation (DCR) for all land application sites, regardless of the frequency of application. Under current VDH regulations, only sites where biosolids are applied more than once every three years are required to prepare NMPs prior to permit issuance. The bill also requires DCR approval of all NMPs for sites where the permit authorizes land application more than once every three years at greater than 50 percent of agronomic rates, and certain sites operated by the owner or lessee of a Confined Animal Feeding Operation or Confined Poultry Feeding Operation. The bill allows VDH to incorporate into the permit reasonable site-specific special conditions to protect the environment or the health, safety and welfare of persons residing in the vicinity of the proposed application site. VDH must also include in its notice of special conditions such site-specific conditions recommended by the locality. The permit applicant will have at least 14 days to respond to the proposed conditions and any objections shall be heard by the Health Commissioner. The bill requires permit holders to provide VDH with evidence of financial responsibility, to be established by regulation, which shall be available to pay claims for cleanup costs, personal injury and property damage. The bill creates a land application certification program to be established by VDH pursuant to which all future land application sites must have a certified land applicator on location at all times during the application process. The bill grants localities that have adopted a biosolids testing and monitoring ordinance the authority to order the abatement of land application activity for violations of relevant laws and regulations. Finally, the bill requests that VDH review certain reports of the National Research Council and the United States Environmental Protection Agency, report its findings to the Virginia Board of Health by June 30, 2004, and

if requested by the Board, initiate rulemaking proceedings by September 1, 2004. SB 1088; CH. 681.

§ 32.1-174.3 added. Certain private waterworks; appointment of receiver. Grants the Commissioner of Health the authority, in addition to the other civil and criminal penalties and injunctive or other relief, to petition the circuit court for the jurisdiction in which any private waterworks is located for the appointment of a receiver. The Commissioner must find that the waterworks is unable or unwilling to provide adequate and safe service for any of the following reasons: (i) the waterworks can no longer be depended upon to furnish pure water; (ii) the waterworks has inadequate capacity to furnish pure water to its customers; (iii) the owner has failed to comply with an order issued by the Commissioner; (iv) the owner has abandoned the waterworks and has discontinued supplying pure water to his customers; (v) the owner is subject to a forfeiture order on his bond; or (vi) the Commissioner has issued an emergency order because there is an imminent danger to the public health and welfare resulting from the operation of the waterworks or the source of the water supply. Upon the filing of a petition for appointment of a receiver for a private waterworks, the court must hold a hearing within 10 days, at which time the Commissioner and the owner of the waterworks may present evidence. The court may grant the petition if it finds any one or more of the named conditions and the court further finds that the conditions will not be remedied and that the health and welfare of the owner's customers will not be protected unless the petition is granted. Upon appointment, the receiver will take possession of the assets of the waterworks and operate the waterworks in the best interests of the customers. The receiver will have such powers and duties to operate and manage the waterworks as the court may grant and direct, including the filing of such reports as the court may direct and the power to receive, conserve, protect, and disburse funds. The court may grant injunctive relief as it deems appropriate to the Commissioner or the receiver either in conjunction with or subsequent to the granting of a petition for appointment of a receiver under this section. Control of and responsibility for the waterworks will remain in the receiver until the waterworks can, in the best interest of the customers, be returned to the owner, transferred to a new owner, or otherwise configured as the court may determine to be in the best interests of the public and the customers. The court may terminate the receivership on the motion of the Commissioner, the receiver, or the owner, upon finding, after a hearing, that the conditions initiating the petition for the appointment of a receiver have been eliminated or resolved. Within 30 days after such termination, the receiver shall file a complete report of his activities with the court, including an accounting for all property of which he took possession and all funds collected. A receiver appointed pursuant to this provision will be an officer of the court, will not be liable for the conditions of the waterworks that existed prior to his receivership, and will not be personally liable, except for his own gross negligence or intentional acts, to injuries or damage to property relating to the waterworks, during his receivership. This immunity provision cannot, however, be construed to relieve any owner of any duty imposed by law or

of any civil or criminal liability incurred by reasons of any act or omission of such owner. SB 966; CH. 458.

§ 32.1-176.5 amended. Health; water quality analysis. Adds Warren and Goochland Counties to the list of localities that may, by ordinance, establish testing requirements for compliance with existing federal or state drinking water quality standards for building permit applicants that propose to use private ground water wells. This bill also authorizes any local governing body allowed to have such an ordinance that also has a well abandonment ordinance to require property owners to close and cap abandoned or inactive wells pursuant to such ordinance. HB 1972; CH. 500.

§ 32.1-193. See § 25.1-100; SB 1007.

§§ 32.1-222, 32.1-224, 32.1-226, and 59.1-200 amended. Department of Health; regulation of bedding and upholstered furniture. Provides that the Health Department is authorized to inspect the premises of the holder of a license or permit who deals in the sale of bedding and upholstered furniture only upon a complaint. In addition to the penalties provided for a violation under the Health Department, it shall also be a prohibited practice under the Consumer Protection Act. The Board of Health is required to promulgate emergency regulations that must include a revision of the fees consistent with the provisions of this act. HB 2810; CH. 1003

§ 32.1-229 amended. Reporting radioactive materials. Requires, when required by the United States Nuclear Regulatory Commission, immediate reporting to the State Departments of Health and Police when radioactive materials, including sources of ionizing radiation approved by the Federal Food and Drug Administration for the treatment of foods pursuant to the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), cannot be accounted for within 24 hours. This bill also provides that the reports of the missing radioactive materials will not be public records pursuant to the Freedom of Information Act. However, the information may be made public in whole or in part (i) where the release of the report may assist in the prevention of imminent harm to public health or safety, or (ii) where the release of the report may be useful for education of the public on health, safety, or homeland defense issues. The Department is authorized to share this information with the Department of Emergency Management, United States Nuclear Regulatory Commission, United States Food and Drug Administration, and state, local and federal law-enforcement agencies, as appropriate. HB 1524; CH. 635.

§ 32.1-229.01 amended. Health; radon testing. Requires that radon professionals conducting or offering radon screening, testing or mitigation must comply with the radon mitigation and testing standards outlined in the Environmental Protection Agency's publication, EPA 402-R-93-078, as revised, or the American Society for Testing and Materials (ASTM International) Standard, E-2121-02, or any other radon testing and mitigation standards accepted by the Environmental Protection Agency and the Board of Health. The Environmental Protection Agency recognizes the ASTM Standard as equal to or

exceeding its standards for radon testing or mitigation. HB 2321; CH. 709.

§ 32.1-249. See § 18.2-71.1; HB 1541/SB 1205.

§ 32.1-258.1 added. Health; Certificate of Birth Resulting in Stillbirth. Requires, upon the request of either individual listed as the mother or father on a report of fetal death in the Commonwealth, the issuance of a Certificate of Birth Resulting in Stillbirth for unintended, intrauterine fetal deaths occurring after a gestational period of 20 weeks or more. The requesting mother or father may provide a name for the still-born child on the Certificate. The Board of Health is required to prescribe a reasonable fee to cover the administrative costs and preparation of the Certificate. This provision will apply retroactively to any circumstances that would have resulted in the issuance of a Certificate of Birth Resulting in Stillbirth, as prescribed by the Board. HB 1450; CH. 537/SB 1267; CH. 552.

§ 32.1-261. See § 63.2-1220; HB 2233.

§§ 32.1-262 and 32.1-267 amended. Health; vital statistics. Deletes any statement as to racial designation from marriage and adoption records. Similar designations were removed from divorce records in the 2002 Session. HB 2106; CH. 504.

§ 32.1-263 amended. Date and time of death. Provides that, when the date of death is unknown, it must be determined by approximation, taking into consideration all relevant information, including, but not limited to, information provided by the immediate family regarding the date and time that the deceased was last seen alive if the individual died in his home. HB 1718; CH. 484.

§§ 32.1-276.3 and 32.1-276.6 amended. Health care data reporting. Requires licensed dentists who are registered as oral and maxillofacial surgeons and certified to perform certain procedures by the Board of Dentistry pursuant to § 54.1-2709.1 to submit required outpatient surgery data relating to several procedures. Only those procedures requiring certification under § 54.1-2709.1 will be reported. SB 1091; CH. 466.

§ 32.1-276.8 amended. Health care data reporting. Revises the fee structure for processing, verification, and dissemination of reported health care data. The limitation on the Board's authority to prescribe a reasonable fee that does not exceed one dollar per discharge is removed. The Board continues to be authorized to prescribe a reasonable fee for each affected health care provider to cover the costs of the reasonable expenses of establishing and administering the data processing methodology and to establish a tiered-fee structure. The nonprofit organization's authorization to charge and collect fees prescribed by the Board and to charge a fee of up to one dollar for records that it determines are not processed, verified data is removed. A specific prohibition against the nonprofit organization assessing any fee against any health care provider that submits processed, verified, and timely data is stated. The Board of Health is required to establish penalties for submission of data in a manner that is inconsistent with its standards. The requirement for the Board to maintain records of its activi-

ties; collect and account for all fees and deposit the moneys in a special fund; and enforce all regulations is moved to a new subsection. SB 1264; CH. 472.

§§ 32.1-283 and 32.1-285 amended. Suspicious deaths. Provides that reports and autopsies of the medical examiner performed for suspicious deaths must be given to the appropriate law-enforcement agency investigating the death. Currently, copies of these documents must be delivered to the appropriate attorney for the Commonwealth and are often supplied to law-enforcement officials, upon request. SB 831; CH. 368.

§ 32.1-315 amended. Medicaid; prohibited acts. Clarifies that exceptions provided in the federal anti-kickback law, i.e., the Medicare and Medicaid Patient Protection Act of 1987, as amended, and in the implementing regulations promulgated by the Secretary of Health and Human Services are also exceptions to Virginia's Medicaid self-referral statute. The federal law and regulations relate to Medicare and Medicaid reimbursable services and provide for criminal penalties for violations of its anti-kickback provisions. Numerous and complex exceptions, known as "safe harbors," are provided. HB 1869; CH. 312.

§§ 32.1-325 and 32.1-351 amended. Children's health insurance. Establishes a program incorporating both Medicaid and the Family Access to Medical Insurance Security (FAMIS) Plan in order to provide coordinated services to individuals defined as children in these programs. The Medicaid portion is named FAMIS Plus. The bill codifies practice by requiring the use of a single application to determine eligibility for both Medicaid coverage for children and FAMIS. Coverage for the mental health services currently provided for children enrolled in Medicaid is extended to individuals eligible for FAMIS. The bill reduces the waiting period from six to four months between the time that a child was covered by private health insurance and when eligibility for FAMIS can be established. The cost-sharing requirements are amended to clarify that the annual aggregate cost-sharing for all eligible children in a family between 100 percent and at or below 150 percent of the federal poverty level will be limited to nominal copayments and the annual aggregate cost-sharing will not exceed 2.5 percent of the family's gross income. The nominal copayments for all eligible children in a family will not be less than those in effect on January 1, 2003. HB 2287; CH. 66/SB 1218; CH. 71.

§ 32.1-325.02. See § 64.1-57; HB 1976.

§ 32.1-328. See § 63.2-608; HB 2380.

§ 32.1-330 amended. Medicaid; preadmission screening. Allows a team of licensed physicians, nurses, and social workers to provide preadmission screening for clients of the Woodrow Wilson Rehabilitation Center for determination of need for nursing facility services. Currently, only the Departments of Health or Social Services or hospitals may perform this assessment. Woodrow Wilson Rehabilitation Center performed this function when it was designated as a hospital; however, it is licensed currently as a comprehensive outpatient

rehabilitation facility and is, therefore, not recognized under law to do the assessment. HB 1685; CH. 480.

§ 32.1-351 amended. Health; Family Access to Medical Insurance Security Plan eligibility. Provides 12 continuous months of coverage for eligible children residing in Virginia whose family income does not exceed 200 percent of the federal poverty level during the enrollment period as permitted by Title XXI of the Social Security Act. HB 2594; CH. 521.

§ 32.1-351.1 amended. Children's health insurance through employer-sponsored health insurance programs. Changes the provision in FAMIS on minimum employer contribution from 50 percent towards the cost of dependent or family coverage for an employer's comprehensive health insurance program to be considered employer-sponsored health insurance (ESHI) to a percentage defined in the Virginia Plan for Title XXI of the Social Security Act. Under the current Family Access to Medical Insurance Security Plan, if a family chooses to participate in ESHI and ESHI is deemed cost-effective, the Department of Medical Assistance Services must contribute to the cost of ESHI for eligible dependent children for those program participants that have access to ESHI. HB 2297; CH. 513.

§§ 32.1-353.1 through 32.1-353.5 amended; § 32.1-353.6 repealed. Certified nursing facility education initiative. Repeals the expiration date of July 1, 2003, that would have sunsetted this program; makes some technical or clarifying amendments; and declares the records, reports, and communications of any staff member, employee, consultant, or other person, acting on behalf of the nonprofit organization that is contracted to conduct the nursing facility education initiative, to be privileged and not to be disclosed or obtained by legal discovery proceedings unless a circuit court, after a hearing and a showing of good cause arising from extraordinary circumstances, orders the disclosure. This declaration will not, however, provide any privilege for the records of the facilities with respect to any patient or any facts or information contained in the records or preclude or affect discovery of or production of evidence relating to the treatment of any patient by a health care provider. Technical amendments are also included. HB 1697; CH. 481.

TITLE 32.1. MISCELLANEOUS - HEALTH.

Certificate of public need; authorization of certain amendment. Authorizes, notwithstanding the provisions of the moratorium on nursing home bed construction/additions that was in effect until July 1, 1996, or the provisions of a previous authorization for amendments to the relevant certificate, the Commissioner of Health to accept and approve a request to amend the conditions of a certificate of public need issued as an exception to the former restriction on filing applications for nursing home bed projects. Many of the facilities provided exceptions to the moratorium, including the one that is the subject of this bill, and had strict conditions imposed by the

law concerning acceptance of private pay patients directly into their nursing homes. This bill will authorize the facility to ask the Commissioner of Health for an amendment to its previous certificate of public need to continue, for three years from the issuance of an occupancy permit for the third-midrise residential unit building associated with such facility or until June 30, 2006, whichever occurs first, to admit persons, other than residents of the cooperative units, to its nursing facility beds. The facility must be (i) operated by an association described in § 55-458 (an association for the management of real estate cooperatives); (ii) created in connection with a real estate cooperative; and (iii) providing its residents a level of nursing services consistent with the definition of continuing care in Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 (a continuing care facility). This bill applies to one facility to which the original certificate of public need was issued prior to October 3, 1995. HB 1747; CH. 486.

Medicaid-Buy-In. Requires the Board of Medical Assistance Services to prepare and seek a § 1115 waiver to implement one of the options for a Medicaid Buy-In program for up to 200 working families with disabilities. Such option must be designed to provide working persons with disabilities, who, because of their higher earnings, were not eligible for medical assistance services in Virginia, with access to coverage under the Virginia medical assistance services program. The provision for a Medicaid Buy-In must provide such working persons with disabilities access to this comprehensive health care when they meet the Board's established income and resource or other eligibility criteria. Any Medicaid Buy-In Program for which a waiver is granted shall not become effective until an appropriation of moneys effectuating such benefits is included in a general appropriation and passed during a regular session of the General Assembly. HB 1822; CH. 489.

Medical assistance services; consumer-directed care. Requires the Department of Medical Assistance Services to prepare, and authorizes the Department to seek approval of, an application for (i) a revision of the consumer-directed personal care services waiver to allow spouses, parents, adult children, and guardians to direct care on behalf of the waiver recipient, when such recipient is incapable of directing such care on his own behalf and (ii) a new waiver for home- and community-based services, as soon as such waiver template becomes available. Any such waiver revision or new waiver must be cost-neutral and must expand consumer-directed care in so far as practicable. Any such waiver application must protect the health and safety of recipients as well as the fiscal integrity of the Commonwealth. Such waiver will provide for a fiscal agent to handle tax issues and payment of personal attendants on the part of recipients. In addition, any such waiver application will (a) provide recipients with flexible choices and personal independence in so far as possible and (b) include provisions for family members to deliver the covered services when consistent with and not prohibited by federal law and regulation. This provision or any new or revised project that may be, but is not required to be, implemented must not be construed as creating any legally enforceable right or entitlement to consumer-

directed care, the Virginia Plan for Medical Assistance Services, or Title XIX of the Social Security Act, as amended, on the part of any person or to create any legally enforceable right or entitlement to participation in any consumer-directed care by any person. A second enactment clause authorizes the Board of Medical Assistance Services to promulgate emergency regulations, upon the approval by the Centers for Medicare and Medicaid Services of any application for revision of the consumer-directed personal care services waiver or for any new waiver that may be submitted by the Department of Medical Assistance Services pursuant to this act. Further, a third enactment clause authorizes the Board of Medical Assistance Services to use, when in compliance with the Administrative Process Act (§ 2.2-4000 et seq.), electronic media as much as possible during the promulgation of the regulations, including, but not limited to, posting documents to and receiving comments via the Department's website, by e-mail and fax. The Board must, however, continue to provide public notice and participation to those persons who do not have access to the Internet or other forms of electronic media. SB 1008; CH. 460.

TITLE 33.1. HIGHWAYS, BRIDGES AND FERRIES.

§ 33.1-12 amended. Commonwealth Transportation Board (CTB). Imposes a statutory requirement (i) for a financial plan with minimum specified content for projects valued at more than \$100 million; (ii) for a periodic report with specific information for every project in the Six-year Improvement Plan; (iii) for the CTB to offer technical assistance and coordination work with local governments in developing sound transportation planning components to their local comprehensive plans; and (iv) that the CTB adopt the Six-year Improvement Plan by July 1 of each year. The bill also specifies the parameters and criteria that must be used to adopt a new Six-year Improvement Plan. This bill is the same as SB 869 except that the sentence, "Project specific information posted on the Internet shall be updated as information is available" does not appear at the end of subdivision (6) of § 33.1-12 in SB 869. HB 2259; CH. 560.

§ 33.1-12 amended. Commonwealth Transportation Board (CTB). Imposes a statutory requirement (i) for a financial plan with minimum specified content for projects valued at more than \$100 million; (ii) for a periodic report with specific information for every project in the Six-year Improvement Plan; (iii) for the CTB to offer technical assistance and coordination work with local governments in developing sound transportation planning components to their local comprehensive plans; and (iv) that the CTB adopt the Six-year Improvement Plan by July 1 of each year. The bill also specifies the parameters and criteria that must be used to adopt a new Six-year Improvement Plan. This bill is the same as HB 2259 except that the sentence, "Project specific information posted on the Internet shall be updated as information is available" does not appear at the end of subdivision (6) of § 33.1-12 in this bill. SB 869; CH. 533.

§ 33.1-12 amended. Commonwealth Transportation Board (CTB), etc. Allows the CTB to let all contracts for the construction, maintenance, and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation improvements in excess of \$2 million. The bill also allows the Commonwealth Transportation Commissioner to let contracts for construction, maintenance, and improvements up to \$2 million and allows the Director of the Department of Rail and Public Transportation to let contracts for passenger and freight rail and public transportation improvements up to \$2 million. Similarly, it allows the Commonwealth Transportation Commissioner to enter into agreements with localities, authorities, and transportation districts to let contracts up to \$2 million for highway construction, maintenance, and improvements within their jurisdictions and allows the Director of the Department of Rail and Public Transportation to enter into agreements with localities, authorities, and transportation districts to let contracts up to \$2 million for passenger and freight rail and public transportation improvements within their jurisdictions. The Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation are required to report on their respective transportation contracting activities at least quarterly to the Board. SB 977; CH. 281.

§ 33.1-23.3 amended. Urban highway system. Allows the governing body of any city or town to expend urban system construction funds for the design, land acquisition, and construction of transportation projects that have been included in the Commonwealth Transportation Board's Six-year Improvement Program. SB 852; CH. 870.

§ 33.1-23.3 amended. Urban highway system construction funds. Provides that payment of urban highway system construction funds may be made in equal quarterly amounts, at the discretion of the city or town receiving them, and shall be reduced, in the case of each city and town, by the amount of federal-aid construction funds credited to each city or town. SB 1222; CH. 288.

§ 33.1-23.4 amended. Secondary highway system construction allocations. Allows counties to use secondary highway system construction allocations for primary highway system construction projects. HB 1447; CH. 887.

§ 33.1-46.2 amended. High-occupancy vehicle (HOV) lanes. Extends the "sunset" on use of HOV lanes by vehicles bearing clean fuel vehicle license plates, regardless of the number of their occupants, (from July 1, 2004, to July 1, 2006). The provisions of the bill "sunset" if found to contravene federal laws. HB 2316; CH. 324.

§ 33.1-70.1 amended. Rural Rustic Road Program. Encourages use of the Rural Rustic Road program by counties to pave qualifying road segments. HB 1884; CH. 599.

§§ 33.1-75.1 and 33.1-75.3 amended; § 33.1-225.1 repealed. Use of federal revenue-sharing funds by localities for certain highway-related purposes. Removes references to use of federal revenue-sharing by localities for highway-related pur-

poses. The program under which federal revenue-sharing funds were available to localities has long since been terminated. HB 1488; CH. 303.

§§ 33.1-89, 33.1-91, 33.1-95, 33.1-95.1, 33.1-98, 33.1-120, 33.1-121, 33.1-124, 33.1-128, 33.1-132, 33.1-134, 33.1-238, 33.1-422, and 33.1-443. See § 25.1-100; SB 1007.

§§ 33.1-124 and 33.1-128 amended. Commonwealth Transportation Commissioner condemnations; rate of interest. Provides that interest on certain obligations of the Commonwealth Transportation Commissioner to owners of property acquired through condemnation proceedings will accrue at the rate of interest established pursuant to § 6621 (a) (2) of the Internal Revenue Code. Currently, interest accrues at the general account composite rate as complied by the Department of the Treasury. HB 1950; CH. 47 (effective 3/16/03).

§§ 33.1-124 and 33.1-128 amended. Condemnation; interest. Provides for calculating interest in highway-related condemnation cases using the IRS's underpayment rate (§ 6621 (a)(2) of the Internal Revenue Code) instead of the general account's composite rate. This bill contains an emergency clause, and its provisions are retroactive to condemnation awards rendered or certificates of deposit recorded on or after October 1, 2002. SB 713; CH. 19 (effective 3/16/03).

§§ 33.1-127 and 33.1-132 amended. Commonwealth Transportation Commissioner condemnations; delays in filing proceedings. Requires the Commonwealth Transportation Commissioner, unless an agreement with the property owner as to compensation for the taking of or damage to property has been reached, to file a condemnation proceeding within 30 days after recording a certificate with respect to the property. If the Commissioner fails to institute a proceeding within this 30-day period, the owner may file a proceeding in circuit court. HB 1946; CH. 317.

§ 33.1-128 amended. Commonwealth Transportation Commissioner condemnations; evidence of value. Prohibits the Commonwealth Transportation Commissioner, in a condemnation proceeding, from offering evidence of the value of the property taken or damaged that is less than the amount that was either previously deposited with the court or represented by a certificate of deposit filed with the court with respect to that property. HB 1949; CH. 318.

§ 33.1-221.1:3. See § 58.1-815.1; HB 2799.

§ 33.1-223.2:7 added. Family restrooms. Requires the Virginia Department of Transportation to construct family restrooms at rest stops along interstate highways. The bill applies only to rest stops constructed on or after July 1, 2003. SB 837; CH. 279.

§§ 33.1-223.2:7 and 46.2-947 added. Highway safety corridors. Provides for the designation of primary and interstate highways as highway safety corridors. The minimum penalty for motor vehicle moving violations committed in these corridors would be not less than \$200. SB 1093; CH. 877.

§ 33.1-346 amended. Enhanced enforcement of litter laws via driving privilege suspension and community service. Provides that any person who unlawfully dumps trash, garbage or litter on public or private property may have his driving privileges suspended and may be ordered to perform community service. HB 1398; CH. 113.

§ 33.1-346. See § 3.1-796.122; HB 1865.

§ 33.1-355 amended. Advertising on transit passenger shelters. Allows placement of advertising on certain transit passenger shelters. HB 2152; CH. 321.

§ 33.1-370.1 added. Removal of outdoor advertising. Provides that no billboard sign subject to Chapter 7 of Title 33.1 (Outdoor Advertising in Sight of Public Highways) may be removed by action of a county, city, or town without the payment of just compensation unless the billboard sign cannot remain on the property due to the site constraints of the property and removal of the billboard sign is therefore necessary for development on the property. SB 974; CH. 569.

§ 33.1-375.1 amended. Removal of illegal signs from highway rights-of-way. Provides greater flexibility in the provisions of agreements between Fairfax County and the Commonwealth Transportation Commissioner for the removal of illegal signs from highway rights-of-way. HB 1857; CH. 311.

§§ 33.1-391.6 through 33.1-391.9 added. Rail Transportation Development Authority. Establishes a rail transportation development authority to finance or assist in the financing of capital improvements to rail lines and associated facilities. This bill becomes effective only if reenacted by the 2004 Session of the General Assembly. SB 1279; CH. 1041.

TITLE 33.1. MISCELLANEOUS - HIGHWAYS, BRIDGES AND FERRIES.

Arterial network of highways. Eliminates references in the Code to the arterial network of highways and repeals the Acts of Assembly that designate certain highways as part of the arterial network. The bill provides that its provisions are not to be deemed to alter state funding of maintenance, maintenance replacement, construction, or reconstruction of former arterial network projects within the boundaries of any city. HB 1487; CH. 302.

D. Woodrow Bird Memorial Highway. Designates I-77 in Bland County the "D. Woodrow Bird Memorial Highway." SB 1177; CH. 285.

Darrell Green Boulevard. Designates the portion of Virginia Route 28 located within Loudoun County as the "Darrell Green Boulevard." SB 1004; CH. 284.

Interstate Route 73. Reenacts 2002 legislation establishing a pilot program to provide for early acquisition of certain prop-

erty in connection with the construction of Interstate Route 73 in Virginia. The "reenactment clause" in last year's legislation is stricken in this bill. HB 2066; CH. 898.

Madison E. Marye Highway. Designates a portion of U.S. Route 460 in Montgomery County the "Madison E. Marye Highway." HB 2361; CH. 51/ SB 930; CH. 22.

Old Colchester Road. Designates Old Colchester Road in Fairfax County between U.S. Route 1 and the old town of Colchester on the Occoquan River a Virginia byway. SB 747; CH. 276.

U.S. Route 460 improvements. Requires the Department of Transportation, within 90 days of the receipt of federal approval of the relevant Draft Environmental Impact Statement, to solicit proposals for improvements to U.S. Route 460 between Hampton Roads and the Richmond-Petersburg metropolitan area (and related projects) under the Public-Private Transportation Act of 1995. HB 2543; CH. 953.

World War II Veterans Memorial Highway; World War II Veterans Memorial Bridge; Judith Stewart Dresser Memorial Bridge. Designates Virginia Route 288 the "World War II Veterans Memorial Highway," designates the Virginia Route 288 bridge across the James River the "World War II Veterans Memorial Bridge," and designates the Virginia Route 5 bridge across the Chickahominy River the "Judith Stewart Dresser Memorial Bridge." HB 1381; CH. 296.

TITLE 34. HOMESTEAD AND OTHER EXEMPTIONS.

§ 34-17 amended. Garnished wages protected by homestead exemption. Provides that an individual may protect garnished wages via the homestead exemption by filing a claim of homestead exemption after the garnishment summons is served on the employer, and that the court shall consider such exemption. HB 2740; CH. 1000.

§ 34-28.1. See § 16.1-278.16; HB 2405/SB 1206.

TITLE 35.1. HOTELS, RESTAURANTS, SUMMER CAMPS, AND CAMPGROUNDS.

§ 35.1-14. See § 2.2-4002; HB 1700.

TITLE 36. HOUSING.

§§ 36-27 and 36-49.1:1. See § 25.1-100; SB 1007.

§ 36-45 amended. Regional housing authorities; appointment of commissioners. Provides that where a regional housing authority consists of only two counties, the board of supervisors of each county included in such regional housing authority may appoint two persons as commissioners of such authority. HB 1989; CH. 417/SB 1318; CH. 809.

§ 36-45 amended. Housing; appointment of commissioners of regional housing authorities. Provides that where federal housing law requires the appointment of a Section 8 tenant as a commissioner, the commissioners of the regional housing authority shall appoint at least one but not more than two such commissioners. The executive director of the regional housing authority shall prepare a slate of eligible candidates for appointment for the commissioners' consideration. However, the appointing commissioners shall not be required to make appointments from such slate. HB 1990; CH. 559/SB 1182; CH. 535.

§§ 36-55.28 and 36-135 amended. Virginia Housing Development Authority and the Board of Housing and Community Development; membership. Makes the Director of the Department of Housing and Community Development a voting member of the commissioners of the Virginia Housing Development Authority and the Executive Director of the Authority a voting member of the Board of Housing and Community Development. Currently, both directors serve as nonvoting members of their respective bodies. HB 2467; CH. 434.

§§ 36-96.1:1, 36-96.2, 36-96.8, and 36-96.20. See § 54.1-300; SB 1102.

§ 36-99 amended. Uniform Statewide Building Code; basis for regulation. Requires that the Building Code specifically include provisions to prevent overcrowding, rodent or insect infestation, and garbage accumulation, in addition to other existing standards for public health and safety. HB 2123; CH. 901.

§§ 2.2-4006 and 36-99 amended. Uniform Statewide Building Code; regulations of the Board of Housing and Community Development; new building products. Authorizes the Board of Housing and Community Development (the Board), upon finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, to conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon a finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue

amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods, or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board. HB 2480; CH. 436.

§§ 36-99, 36-103, 36-105, 36-114, and 36-119.1 amended. Uniform Statewide Building Code; rehabilitation and maintenance of existing buildings. Allows the Board of Housing and Community Development to establish a modification provision in the Uniform Statewide Building Code to facilitate the rehabilitation of existing buildings and structures including procedures to be used by local building departments in the evaluation and granting of modifications for any provisions of the Building Code. HB 2683; CH. 650.

§ 36-99.6:2 added. Uniform Statewide Building Code; installation of communication equipment for emergency public safety personnel. Requires the Board of Housing and Community Development to promulgate regulations as part of the Building Code requiring the installation in new commercial, industrial and multi-family buildings of emergency communications equipment for emergency service personnel to facilitate effective communication between emergency public safety personnel involved in emergency situations. The bill defines emergency communications equipment and emergency public safety personnel. HB 2529; CH. 611.

§ 36-105.3. See § 2.2-3705; HB 1727.

§ 36-108 amended. State Building Code Technical Review Board; membership. Provides that the heating and cooling contractor member may be selected from a combined slate presented by the Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America. Currently the member may be selected from a slate presented by the Virginia Association of Plumbing-Heating-Cooling Contractors. HB 2299; CH. 950.

§§ 36-139 and 36-132.1. See § 15.2-2901; HB 1967.

TITLE 37.1. INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.

§§ 37.1-42.1 and 53.1-10 amended. State-responsible clients; forms of identification. Requires the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the Director of the Department of Corrections to work with appropriate state and federal entities to assist any person who has been committed to the custody of any facility operated by DMHMRSAS or Department of Corrections, prior to release, to ensure that the

person has certain pieces of identification. A DMHMRSAS consumer who has been a patient for more than one-year shall have possession of the following documents, if required by his discharge plan: a DMV-approved ID card, a copy of his birth certificate and a social security card. The Department of Corrections will make application for similar pieces of identification. HB 2309; CH. 516.

§ 37.1-62.1. See § 2.2-718; HB 2519/SB 969.

§§ 2.2-3703, 37.1-70.1 through 37.1-70.6, 37.1-70.9 37.1-70.16, 37.1-103, 37.1-104, and 37.1-104.1 amended.

Sexually violent predators. Moves the effective date of the sexually violent predator legislation from 2004 to "effective from its passage." The bill redefines sexually violent offense to include a forcible sexual offense committed prior to July 1, 1981, involving sodomy, object sexual penetration and aggravated sexual battery. A sexually violent predator is defined as a person with a qualifying offense who, because of a mental abnormality or personality disorder, has difficulty controlling his predatory behavior which makes him likely to engage in sexually violent acts and receives a certain minimum score on a sex offender risk assessment instrument. The bill limits the person's ability to raise challenges to the validity of his prior criminal convictions and restricts his right to use evidence in his defense if he refuses to cooperate with his mental examination. Time limits for actions required on behalf of the Commonwealth are extended and primary responsibility for control, care and treatment is placed with the Department of Mental Health, Mental Retardation and Substance Abuse Services or with a private entity with which the Department contracts. The bill changes the standard of proof for finding a person a sexual predator from "beyond a reasonable doubt" to "clear and convincing." HB 2445; CH. 989/SB 1149; CH. 1018.

§ 37.1-71 amended. **Transportation of person in civil commitment process.** Requires magistrates to direct the transportation of persons who are the subject of an emergency custody or temporary detention order by a law-enforcement officer from a specified agency and jurisdiction to such medical facilities as may be necessary to obtain emergency medical evaluation or treatment prior to the placement of the individual in the temporary detention facility. HB 2670; CH. 151.

§ 37.1-134.21 amended. **Emergency custody orders for adult persons who are mentally disabled as a result of physical injury or illness.** Provides that, based upon the opinion of a licensed physician that an adult person is incapable of making an informed decision regarding treatment as a result of a physical injury or illness and that the medical standard of care indicates that testing, observation and treatment are necessary to prevent imminent and irreversible harm, a magistrate may issue, for good cause shown, an emergency custody order for such adult person to be taken into custody and transported to a hospital emergency room. This bill requires that, prior to issuance of an emergency custody order the magistrate must ascertain that there is no legally authorized person available to give consent to necessary treatment for the adult person, and

that the adult person (i) is incapable of making an informed decision regarding obtaining necessary treatment, (ii) has refused transport to obtain such necessary treatment, (iii) has indicated an intention to resist such transport, and (iv) is unlikely to become capable of making an informed decision regarding obtaining necessary treatment within the time required for such decision. An opinion by the licensed physician that an adult person is incapable of making an informed decision as a result of physical injury or illness can only be rendered after such licensed physician has communicated electronically or personally with the adult person and the emergency medical services personnel on the scene to obtain information and medical data concerning the cause of the adult person's incapacity, has attempted to obtain consent from the adult person personally and has failed to obtain such consent. If there is a change in the person's condition, the emergency medical services personnel shall contact the licensed physician. If at any time the licensed physician determines that the person has become capable of making and communicating an informed decision, such physician shall rely on the person's decision on whether to consent to further observation, testing or treatment. The person must remain in custody until an evaluation by a licensed physician is performed or the person is otherwise admitted or detained, but in no event can the period of custody exceed four hours. The law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city or town in which he serves to any point in the Commonwealth for the purpose of executing an order for emergency custody. Nothing precludes a law-enforcement officer from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody. If an order of emergency custody is not executed within four hours of its issuance, the order will be void and will be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any judge or magistrate thereof. HB 2011; CH. 790.

§ 37.1-137.2 amended. **Mental health; reports by guardians.** Allows the jurisdiction where the incapacitated person resides to retain the filing fee of five dollars, which accompanies the annual report by the guardian, to be used for services for adults in need. Administrative costs to process and mail the fee exceed the amount of the fee and could fund resources for additional services. HB 2775; CH. 527.

§ 37.1-137.5. See § 64.1-57; HB 1976.

§ 37.1-137.5 amended. **Mental health; power of conservator.** Prohibits a conservator for an incapacitated person from revoking or amending a trust or withdrawing or demanding distribution of trust assets without the approval of the court for good cause shown, unless the trust instrument expressly provides otherwise. HB 2809; CH. 528.

§ 37.1-144. See § 8.01-606; HB 1921.

§§ 37.1-183.3 and 37.1-197.2 amended. **Criminal background checks; victims of domestic violence.** Authorizes community services boards, behavioral health authorities and agencies licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services to hire persons who

were convicted of one misdemeanor offense for assault and battery or assault and battery against a family or household member if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment in a direct consumer care position. SB 1121; CH. 468.

§§ 37.1-256 and 37.1-256.1 amended. Duties of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services. Clarifies the authority of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services to provide inspections of and make policy and operational recommendations for licensed mental health treatment services operated by state correctional facilities. However, if the Inspector General has reason to believe that a criminal offense has been committed, notification shall be given to the Inspector General for the Department of Corrections. The Department of Mental Health, Mental Retardation and Substance Abuse Services currently licenses inpatient and residential mental health treatment services provided in state correctional facilities at Powhatan, Marion, Brunswick, Greensville and Fluvanna and outpatient treatment services at Marion. HB 2346; CH. 35./SB 947; CH. 40.

§§ 37.1-256, 37.1-256.1, and 37.1-257 amended. Office of Inspector General for Mental Health, Mental Retardation and Substance Abuse Services. Adds a requirement for the Inspector General to submit reports to the Joint Commission on Behavioral Health Care, or its successor in interest. The Inspector General is currently required to submit certain reports, information, documents and recommendations to the Governor, the General Assembly, the Secretary of Health and Human Resources and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services. SB 801; CH. 450.

TITLE 37.1. MISCELLANEOUS - INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.

Civil commitment procedures. Requires the Judicial Council to appoint a committee on civil commitment procedures to establish statewide policies and guidelines that identify the party or parties responsible for the safety and security of individuals who are the subject of or who participate in involuntary detention and admission activities in order to assist the courts and other participating parties in the uniform and effective operation of the Commonwealth's civil commitment statutes. The committee shall report these policies and guidelines to the Council by November 1, 2003, and include recommendations for any legislative actions needed to implement the policies and guidelines. The committee shall continue to oversee the operation of the Commonwealth's civil commitment statutes and the implementation of the policies and guidelines and report annually to the Council by November 1 of each year. These policies

and guidelines will then be used by the applicable local representatives or counterparts of the agencies and organizations represented on the committee to develop local procedures to implement such policies and guidelines. Such representatives or counterparts shall review the local procedures annually and revise them as necessary. HB 2698; CH. 523.

TITLE 38.2. INSURANCE.

§ 38.2-231. See § 13.1-543; SB 879.

§§ 38.2-231, 38.2-2113, and 38.2-2208 amended. Insurance notices. Provides that a cancellation, nonrenewal or certain other notices regarding motor vehicle, homeowners, and certain liability insurance policies are effective if the insurer (i) obtains a written receipt from the United States Postal Service showing the date of mailing and the number of items mailed and (ii) retains a mailing list showing the name and address of the insured to whom the notices were mailed, together with a signed statement that the United States Postal Service receipt corresponds to the insurer's mailing list. SB 1131; CH. 387.

§ 38.2-406 amended. Insurance administration assessment; company reports. Allows insurance companies to file assessment reports either on a form furnished by the State Corporation Commission or on a form furnished by the insurer or its vendor if the form has been approved by the Commission. Currently, the reporting forms must be furnished by the Commission. SB 853; CH. 371.

§ 38.2-508.5 added. Health insurance; re-underwriting individuals. Prohibits any health insurer from adjusting premiums, benefits, or contractual terms of existing individual health insurance coverage based upon its reevaluating of the individual's health status or claim experience, at the renewal date of the insurance contract. This prohibition does not apply to adjustments to the premium, or rescission of, or amendments to the insurance contract, if the insurer, subsequent to issuing the policy, learns of information that was not disclosed in the underwriting process and that, if known, would have resulted in higher premiums. Such adjustments, rescission or amendment is also permitted (i) when an insurer provides certain lifestyle-based good health discounts and (ii) when an insurer removes waivers or riders that limit coverage for specific named preexisting conditions. HB 1826; CH. 699.

§ 38.2-517 amended. Insurance; unfair settlement practices; replacement and repair. Prohibits insurance companies and their representatives from failing to disclose to its insured or claimant, at any time that it recommends the use of a designated replacement or repair facility or service or products of a designated manufacturer, that (i) such person is not obligated to use such facilities, services, or materials and (ii) the insurer has a financial interest in the replacement or repair facility, if the insurer has such an interest. HB 2267; CH. 361.

§ 38.2-602 amended; § 38.2-613.2 added. Insurance information security programs. Requires insurance institutions, agents, and insurance-support organizations to implement a comprehensive information security program to safeguard the privacy of consumer information. The measure is required pursuant to the federal Gramm-Leach-Bliley Act and is based on model language adopted by the National Association of Insurance Commissioners. SB 878; CH. 729.

§§ 38.2-604, 38.2-604.1, and 38.2-612.1 amended. Insurance information privacy. Permits the oral communication of an insurer's privacy practices provided that the insured is given written notice of such practices if a policy is issued. The bill also permits agents to be in compliance with notice requirements if the notice has been given within the previous 12 months. HB 2524; CH. 266.

§ 38.2-612 amended. Property insurance; adverse underwriting decisions. Prohibits an insurer from basing an adverse underwriting decision solely on the loss history of a previous owner of the property to be insured. HB 1948; CH. 415.

§§ 38.2-1800, 38.2-1824, 38.2-2411, and 38.2-2412. See § 19.2-152.1; HB 1905.

§ 38.2-1800 amended. Insurance agent licensing. Increases the maximum amount of burial association group life insurance certificate that may be solicited with respect to members of such an association, pursuant to a limited burial insurance authority, to \$7,500. Currently the maximum is \$5,000. HB 1937; CH. 412.

§§ 38.2-1800 and 38.2-1865.1 amended; §§ 38.2-6000 through 38.2-6016 added; §§ 38.2-5700 through 38.2-5707 repealed. Viatical Settlement Act. Replaces the existing Viatical Settlement Act with a more comprehensive version based on model legislation adopted by the National Association of Insurance Commissioners (NAIC) in 2000. The measure authorizes persons who are licensed by the State Corporation Commission as viatical settlement providers and viatical settlement brokers to negotiate, effectuate, and assume responsibility for viatical settlement contracts. A viatical settlement contract is an agreement by which the owner of an insurance policy may accept an immediate cash payment in exchange for the assignment, transfer, sale, or other conveyance of the death benefit or ownership of the insurance policy. This measure regulates viatical settlements regardless of whether the transaction involves a chronically or terminally ill person. Other provisions (i) adopt new definitions that recognize the securitization activities of viatical settlement brokers and providers, (ii) expand notice and disclosure requirements, and (iii) require brokers and providers to develop anti-fraud plans. Provisions of the act that differ from the NAIC model include (a) specifying that this act does not preempt the Virginia Securities Act and (b) prohibiting the viatication of life insurance policies that are less than two years old except in limited circumstances, including the chronic or terminal illness of the insured. Life and annuities insurance agents are permitted to be licensed as viatical settlement brokers. HB 2613; CH. 717.

§§ 38.2-1833 and 38.2-1834 amended. Insurance agents; payment of late payment penalties. Clarifies that an insurer's failure to pay penalties imposed as a result of late payment of appointment processing fees and renewal appointment fees constitutes nonpayment of the required fees, and such failure constitutes grounds for termination of the appointment. SB 877; CH. 871.

§ 38.2-1839 amended. Insurance consultants; contract provisions. Requires any incentives, bonuses, overrides, or any other form of remuneration, whether direct or indirect, to which an insurance consultant is entitled to be specified in the consultant's contract. HB 2802; CH. 621.

§ 38.2-1919 amended. Insurance; claims experience data. Requires any rate service organization designated by the Commission to gather and compile experience data for any classification of workers' compensation insurance that includes coal mining to report such data annually to the Commission for the most recent five years for which such data is available. SB 978; CH. 222.

§§ 38.2-2102 and 38.2-2107 amended. Fire insurance; exclusions. Provides that commercial property and casualty insurance policies shall not cover loss or damage from certified acts of terrorism if the insured has refused coverage offered pursuant to the federal Terrorism Risk Insurance Act. The measure also allows simplified and readable policies to be issued to apply on an excess or primary basis if such provisions are clearly stated. HB 2606; CH. 930.

§§ 38.2-2114 and 38.2-2212 amended; §§ 38.2-2126 and 38.2-2234 added. Use of credit information in insurance transactions. Prohibits insurers from nonrenewing homeowners, renters, or motor vehicle insurance policies based on credit information contained in a consumer report. If credit information is used in part as the basis of nonrenewal, the report must have been procured within 120 days from the date of the nonrenewal. The measure also establishes requirements concerning the use of credit information and credit scores for underwriting, tier placement, or rating purposes with respect to such insurance policies. HB 2535; CH. 543/SB 1284; CH. 553.

§ 38.2-2204 amended. Motor vehicle insurance; exclusion of named persons. Allows a named insured to exclude any person under personal umbrella and excess insurance policies. The exclusion must be made in writing by the first named insured and acknowledged in writing by the excluded driver. HB 2512; CH. 756/SB 1154; CH. 761.

§ 38.2-2206 amended. Motor vehicle insurance; uninsured motorist coverage. Authorizes an immune defendant to remain as a party to litigation as an anonymous party if the court refuses to dismiss such defendant. A judgment against the immune defendant in such event is enforceable against the insurer to the same extent as though the judgment was entered in the actual name of the immune defendant. SB 993; CH. 283.

§ 38.2-2616 added. Home protection companies; arbitration clauses. Permits home protection companies to include in their contracts a provision that requires the contract holder to

submit to binding arbitration in any dispute between the contract holder and the home protection company. HB 2544; CH. 799.

§ 38.2-2801 amended. Medical Malpractice Joint Underwriting Association. Specifies that the limits of liability for policies written in the Medical Malpractice Joint Underwriting Association may not exceed two million for each claimant under any one policy and six million for all claimants under one policy in any one year. Currently, the limits of liability for such policies may not exceed one million for each claimant under any one policy and three million for all claimants under one policy in any one year. This measure will conform this provision with the cap on recovery in medical malpractice actions. The measure has an emergency clause. HB 1777; CH. 488 (effective 3/16/03).

§ 38.2-2801 amended. Medical Malpractice Joint Underwriting Association; activation. Requires the State Corporation Commission to commence an investigation of the voluntary market for medical malpractice insurance immediately, to determine whether there exists sufficient need to activate the medical malpractice joint underwriting association. The Commission shall activate the association if, after investigation, notice, and hearing, it finds that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care. The Commission shall report its findings by December 31, 2003. The bill has an emergency clause. SB 1316; CH. 1026 (effective 4/2/03).

§ 38.2-3221 amended. Annuity contracts; minimum interest rate. Reduces the minimum interest rate on individual deferred annuities issued by insurance companies between April 1, 2003, and July 1, 2005, from three percent to 1.5 percent per year. The interest rate applies to minimum nonforfeiture amounts applicable to net considerations, partial withdrawals, and partial surrenders. The measure has an emergency clause. HB 2609; CH. 440 (effective 3/16/03).

§ 38.2-3418.4 amended. Health insurance; coverage for reconstructive breast surgery. Provides that notice of the availability of health insurance coverage for reconstructive breast surgery be provided to the policy's subscribers upon enrollment in the policy and annually thereafter. HB 1886; CH. 250.

§ 38.2-3418.13 amended. Health insurance; mandated coverage for morbid obesity treatment. Requires that the standards and criteria, including those related to diet, used by insurers to approve or restrict access to surgery for morbid obesity shall be based upon current clinical guidelines recognized by the National Institutes of Health. This is intended to clarify whether insurers can consider dietary standards. SB 1081; CH. 462.

§ 38.2-3431 amended. Essential and standard health services plans. Exempts essential and standard health services plans from mandated provider requirements and allows such

plans to include co-payment, co-insurance, deductibles and other cost-sharing arrangements. HB 2234; CH. 645.

§ 38.2-3432.3 amended. Health insurance exclusion periods for preexisting conditions; pregnancy. Clarifies that the prohibition on excluding health insurance coverage for pregnancy as a preexisting condition does not apply to eligible individuals purchasing individual health insurance coverage. In such cases, the health insurer may impose a preexisting condition exclusion for a pregnancy that exists on the effective date of coverage. This change is intended to resolve an inconsistency with another provision that currently provides that preexisting conditions may not be applied for eligible individuals for individual health insurance coverage. SB 943; CH. 221.

§§ 38.2-3503 and 38.2-3504 amended. Health insurance policy provisions; refunds of unearned premiums. Clarifies that provisions added by House Bill 1236 (2000) regarding refunds of the unearned portion of premiums are inapplicable to policies that were issued prior to January 1, 2001, and have not been subsequently renewed or extended. The amendments make no substantive change to the legislation enacted in the 2000 Session. SB 944; CH. 377.

§ 38.2-3540.1 amended. Accident and sickness insurance; claims experience. Requires insurers issuing group accident and sickness insurance policies to provide to policyholders that are large employers, upon request, when providing the policyholder's claims experience record, a summary of claims charges incurred and the amount paid for each claim for the most recent available 24-month period. This record must also include (i) the monthly enrollment in each membership type, and (ii) a listing of claims in excess of \$50,000, for the same 24-month period. HB 2803; CH. 654.

§§ 38.2-4300, 38.2-4302, 38.2-4303, and 38.2-4306 amended. Health maintenance organizations; powers. Permits a health maintenance organization to offer to its subscribers deductibles, copayments, and cost-sharing provisions provided they comply with applicable state law. "Copayment" is defined as an amount an enrollee is required to pay in order to receive a specific health care service. "Deductible" is defined as an amount an enrollee is required to pay out-of-pocket before the health care plan begins to pay the costs associated with health care services. HB 2601; CH. 767/ SB 1195; CH. 752.

§ 38.2-4319 amended; § 38.2-3418.14 added. Accident and sickness insurance; coverage for lymphedema. Requires health insurers, health care subscription plans and health maintenance organizations to provide coverage for equipment, supplies, complex decongestive therapy, and outpatient self-management training and education for the treatment of lymphedema. HB 1737; CH. 243.

§§ 2.2-3701, 2.2-3705, 38.2-5001, 38.2-5002, 38.2-5004, 38.2-5004.1, 38.2-5005, 38.2-5007, 38.2-5008, 38.2-5009, 38.2-5015, and 38.2-5016 amended; §§ 38.2-5002.1, 38.2-5002.2, 38.2-5009.1, and 38.2-5016.1 added. Virginia Birth-Related Neurological Injury Program. Authorizes the Workers' Compensation Commission to award up to \$100,000

to the parents or legal guardian of an injured infant covered under the Virginia Birth-Related Neurological Injury Program who dies within 180 days of birth. The Program is made subject to the Freedom of Information Act and is required to implement procedures consistent with the Public Procurement Act and the rulemaking provisions of the Administrative Process Act. The Virginia Birth-Related Neurological Injury Fund must be audited annually by a certified public accountant. The Office of the Attorney General is required to provide legal services for the Program. Other changes (i) clarify that a mother is not subject to the Program's exclusive remedy provision with respect to physical injuries she suffers during delivery; (ii) require hospitals to release fetal monitoring strips to the Program or injured infant's legal representative and provide that the failure to provide the information creates a rebuttable presumption of fetal distress; (iii) require the investigation and referral to the Board of Health Professions or Department of Health, as appropriate, of health care providers and participating hospitals if the conduct gives rise to disciplinary action; (iv) require physicians and nurse midwives to inform patients whether they are participants in the Program; (v) require all hospitals to provide a brochure on the Program with post-partum materials if the infant was hospitalized in a neonatal intensive care unit; (vi) require the report of the reviewing panel of physicians to be mailed to the Program and all parties within 60 days after the filing of a petition; and (vii) provide that the Act's exclusive remedy provision applies with respect to claims by an infant's parents or other representative if the claim is derivative of the medical malpractice claim involving the infant's injury. The panel's report is required to confirm whether each element of the definition of a birth-related injury is satisfied, and the panel is to complete such documentation as the Program's board of directors requires. Physician review panel duties will rotate among Eastern Virginia Medical School, University of Virginia School of Medicine, and the Medical College of Virginia on a case-by-case basis. The Commission may require the claimant to procure health insurance for the injured infant, to be paid for from the Fund. The Commission may award unsuccessful petitioners reasonable attorneys' fees and other expenses incurred in filing a claim in good faith. The Program's board is required to consult semiannually with the chief investment officer of the Virginia Retirement System regarding fund management strategies and asset allocations, and the Program's investment advisor shall provide annual statements explaining the expected returns on its equities and fixed income portfolios. The Program's board is directed to (a) develop and implement a policy on handicapped-accessible housing, (b) study and develop options for revising fees for participating providers, and (c) maintain a list of Program participants and, with consent, make the list available to other claimants. The board of director's power to reduce the annual participating physician assessment and the annual participating hospital assessment is eliminated. The board's nonparticipating physician representative is replaced with a citizen member with professional experience working with the disabled community. Two of the other citizen members of the board are required to have a minimum of five years of professional investment experience, one

is required to have professional experience working with the disabled community, and one shall be the parent of a disabled child. HB 2048; CH. 897.

TITLE 40.1. LABOR AND EMPLOYMENT.

§ 40.1-29 amended. Payment of wages and salaries. Authorizes payments of wages or salaries by electronic funds transfer to be made into a trust account on which the employee is a named beneficiary, with consent of the employee. HB 1751; CH. 638.

§ 40.1-51 amended. Occupational health and safety. Deletes obsolete language relating to the effect of 1972 legislation upon duties of the Department of Labor and Industry, the Commissioner of Labor and Industry, and the State Corporation Commission. The deleted provision refers to duties imposed upon the State Corporation Commission by sections of the Code that have either been repealed or do not pertain to the State Corporation Commission. HB 2696; CH. 445.

§ 40.1-79.01 amended. Child labor; exemptions. Lowers the minimum age for referees of sporting events from 13 to 12 years of age. SB 989; CH. 380.

§ 40.1-103. See § 18.2-371; HB 2447/SB 1151.

TITLE 42.1. LIBRARIES.

§ 42.1-32.7 repealed. State Networking Users Advisory Board. Abolishes the State Networking Users Advisory Board. The Board was created in the 1980s to enable integration of the library networking system between The Library of Virginia and other libraries across the state. The Board is no longer necessary because it has accomplished its objective. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 1509; CH. 176.

§§ 42.1-80 and 42.1-81 repealed. State Public Records Advisory Council. Abolishes the State Public Records Advisory Council. The Council proposes to the State Library Board rules, regulations, and standards for the purpose of establishing uniform guidelines for the management and preservation of public records throughout the Commonwealth. The Council has not been able to function to the full capacity of its mission because its duties and responsibilities are vague and members have full-time positions with little time to become familiar with public recordkeeping issues. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies,

Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 1510; CH. 177.

§ 42.1-80. See § 2.2-106; HB 1926/SB 1247.

§ 42.1-82. See § 18.2-186.3; HB 2175.

§ 42.1-82. See § 18.2-186.3; SB 979.

TITLE 43. MECHANICS' AND CERTAIN OTHER LIENS.

§ 43-4 amended. **Perfection of lien by general contractor; recordation and notice.** Requires a mechanic's lien claimant who is a general contractor to file along with the memorandum of lien a certification that he has mailed a copy of the memorandum of lien to the affected owner's last known address. Currently from the time of recording and indexing of the lien all persons are deemed to have notice of the lien. HB 1819; CH. 698.

§§ 43-13.2 and 43-13.3 amended. **Mechanics' liens; 120-day affidavit.** Adds "a signed statement attested to by a witness" as an alternative to the 120-day affidavit that the owner of residential real property must provide to the purchaser stating that all persons performing labor or furnishing materials in connection with any improvements on such property within 120 days prior to the date of settlement and with whom such owner is in privity of contract have been paid in full. HB 1615; CH. 400.

§ 43-63.1. See § 8.01-66.2; SB 841.

TITLE 44. MILITARY AND EMERGENCY LAWS.

§ 44-102.1 added. **Rights, benefits and protections upon call to active duty.** Provides that any right, benefit, or protection that may accrue to a member of the Virginia National Guard under the Federal Soldier's and Sailor's Civil Relief Act as a result of a call to federal active duty service under Title 10 of the United States Code shall be extended to a member of the Virginia National Guard called to active duty service under Title 32 of the United States Code, or to state active duty by the Governor, if the active duty orders are for a period of 30 consecutive days or more. SB 910; CH. 769.

§§ 44-146.18 and 44-146.19 amended. **Preparedness and Coordination Program.** Adds the following to the requirements of the State Department of Emergency Management in its administration of emergency services and disaster preparedness programs: (i) coordinating with political subdivisions and state agencies to ensure that the Commonwealth has the most up-to-date assessments and preparedness plans to prevent, respond to and recover from disasters, including acts of

terrorism; (ii) conducting a statewide emergency management assessment; and (iii) submitting to the Governor and to the General Assembly an annual report on the status of emergency management response plans. The bill also provides that the Department shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management and requires political subdivisions to provide an annual emergency management assessment to the State Coordinator of Emergency Management. HB 2816; CH. 622.

§ 44-146.22 amended. **Emergency services and disaster law; release of records.** Provides that the Governor or agencies acting on his behalf may receive information, voluntarily submitted from both public and nonpublic entities, related to the protection of the nation's critical infrastructure sectors and components that are located in Virginia or affect the health, safety, and welfare of the citizens of Virginia. The bill provides that information submitted by any public or nonpublic entity in accordance with the procedures set forth in subdivision A 57 of § 2.2-3705 shall not be disclosed unless: (i) it is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act; (ii) the agency holding the record is served with a proper judicial order; or (iii) the agency holding the record has obtained the written consent to release the information from the entity voluntarily submitting it. HB 2210; CH. 848.

TITLE 45.1. MINES AND MINING.

§§ 45.1-161.58, 45.1-161.292:31, 45.1-181, 45.1-184.2, 45.1-235, 45.1-361.29, and 45.1-361.33 amended. **Department of Mines, Minerals, and Energy permit fees.** Increases the cost of permits and licenses issued by the Department of Mines, Minerals, and Energy. Twelve of the fees are set by statute, while two fees are set by regulation. The bill contains enactment clauses directing the Virginia Gas and Oil Board and the Department of Mines, Minerals, and Energy to increase those two fees and exempts those regulatory amendments from the Administrative Process Act. HB 2465; CH. 542/ SB 1173; CH. 550.

§ 45.1-161.292:73 amended. **Mineral mining safety.** Exempts scientific workers; delivery workers; customers, including commercial over-the-road truck drivers; vendors; and visitors from the training program requirements for miners. HB 1623; CH. 401.

§§ 45.1-161.311:3 through 45.1-161.311:8 added. **Establishing trust for coal interests.** Authorizes persons owning a majority interest in a tract of coal to petition the circuit court to establish a trust in those instances when not all the owners of the tract can be located or the owners are known but are unwilling to mine the coal. The proceeds of the leased coal will be placed in a trust and in the case of unknown owners held for

five years and then disbursed under provisions of the Uniform Disposition of Unclaimed Property Act. For known owners unwilling to develop the coal, a trustee is empowered to escrow the proceeds of the lease until such time as the minority owner's claim is established to the satisfaction of the court. SB 1308; CH. 775.

§ 45.1-161.320. See § 25.1-100; SB 1007.

TITLE 46.2. MOTOR VEHICLES.

§§ 46.2-100, 46.2-904, 46.2-905, 46.2-906, and 46.2-1081 amended. **Bicycles.** Revises the definition of "bicycle" (as it applies to Title 46.2, Motor Vehicles) to eliminate references to pedals and seat height. The bill also provides definitions for "bicycle lane," "shared-use path," and "sidewalk"; revises where and how bicyclists are to ride on highways; allows transportation of children under six years old on bicycles if they are securely attached to the bicycle in a seat or a trailer designed for young children; and allows but does not require bicycles, electric power-assisted bicycles, and mopeds to display slow-moving vehicle emblems. HB 1553; CH. 29/SB 1112; CH. 46.

§ 46.2-105.2 amended; §§ 46.2-328.1 and 46.2-341.16:1 added. **Obtaining driver's licenses, special identification cards, etc.; legal presence in the U. S.; fraudulent representation; penalty.** Makes it a Class 6 felony to obtain any document issued by the Department of Motor Vehicles (DMV) through the use of counterfeit, forged, or altered documents (unless the violation includes obtaining or possessing the documents for the purpose of engaging in an age-limited activity, in which case the violation is a Class 2 misdemeanor). The bill also provides that DMV will not issue an original license, permit, or special identification card to any applicant who has not presented with his application documentary evidence that he is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States. An applicant who presents in person valid documentary evidence of (a) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (b) a pending or approved application for asylum in the United States, (c) entry into the United States in refugee status, (d) a pending or approved application for temporary protected status in the United States, (e) approved deferred action status, or (f) a pending application for adjustment of status to legal permanent residence status or conditional resident status, may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year. Any temporary license, permit, or special identification card issued pursuant to this subsection is required to clearly indicate that it is temporary and state the date that it expires.

Such a temporary license, permit or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit or special identification has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security. Applications for renewal, duplication, or reissuance of licenses and special identification cards will be presumed to have been validly issued, provided that, at the time the application is made, the license has not expired, or been cancelled, suspended or revoked. The bill finally requires that driver's license endorsements by DMV including the issue, reissue, or renewal authorizing a driver to operate a vehicle transporting hazardous materials must comply with the requirements of the USA Patriot Act of 2001. The bill becomes effective on January 1, 2004, except that the provisions relating to the Patriot Act become effective on July 1, 2004. On or before December 1, 2003, DMV must report to the General Assembly the content of regulations that the Department of Motor Vehicles intends to promulgate to carry out the provisions of this act. HB 1954; CH. 817 (effective-see bill)/SB 1058; CH. 819 (effective-see bill)

§ 46.2-106 amended. **Reciprocity Board.** Abolishes the Reciprocity Board. HB 1444; CH. 299.

§ 46.2-111 amended. **Commercial vehicles stopped on highway roadways or shoulders.** Requires that whenever any commercial motor vehicle (as defined in § 46.2-341.4) is stopped on any roadway shoulder of any highway in the Commonwealth at any time for any cause other than stops necessary to comply with traffic control devices, lawfully installed signs, or signals of law-enforcement officers, the operator of such vehicle must immediately activate the vehicular hazard warning signal flashers and as soon as possible, but in any event within 10 minutes of stopping, place or cause to be placed on the roadway or shoulder three red reflectorized triangular warning devices of a type approved by the Superintendent of State Police. One of the red reflectorized triangular warning devices must be placed in the center of the lane of traffic or shoulder occupied by the stopped vehicle and not less than 100 feet therefrom in the direction of traffic approaching in that lane, a second not less than 100 feet from such vehicle in the opposite direction and a third at the traffic side of such vehicle not closer than ten feet from its front or rear. However, if such vehicle is stopped within 500 feet of a curve or crest of a hill, or other obstruction to view, the red reflectorized triangular warning devices in that direction must be so placed as to afford ample warning to other users of the highway, but in no case less than 500 feet from the vehicle. Vehicular hazard warning signal flashers must continue to flash until the operator has placed the three red reflectorized triangular warning devices required in this subsection. The placement of red reflectorized triangular warning devices is not required within the corporate limits of cities unless, during the time which lights are required to be illuminated on motor vehicles by § 46.2-1030, the street or highway lighting is insufficient to make such vehicle clearly

discernible at a distance of 500 feet to a person on the highway. Flares or torches of a type approved by the Superintendent may be used in lieu of red reflectorized warning devices. In the event that the operator of the stopped vehicle elects to use flares or torches in lieu of red reflectorized triangular warning devices, the operator must ensure that at least one flare or torch remains lighted at each of the prescribed locations as long as the vehicle is stopped. If gasoline or any other flammable liquid or combustible liquid or gas seeps or leaks from a fuel container or a commercial motor vehicle stopped upon a highway, no emergency warning signal producing a flame is to be lighted or placed except at such a distance from any such liquid or gas as will ensure the prevention of a fire or explosion.

The exception provided in this bill with respect to highways within the corporate limits of cities will not apply to any portion of any interstate highway within the corporate limits of any city.

If any such vehicle is used for the transportation of flammable liquids in bulk, whether loaded or empty, or for transporting inflammable gases, red reflectorized triangular warning devices or red electric lanterns of a type approved by the Superintendent of State Police must be used. Such reflectors or lanterns must be lighted and placed on the roadway.

Certain vehicles operating in highway work zones are exempted. HB 1641; CH. 971.

§ 46.2-113 amended. Traffic infractions; penalty. Increases the general maximum penalty for traffic infractions to make it the same as the general maximum penalty for Class 4 misdemeanors (fine up to \$250.00). HB 1911; CH. 844.

§ 46.2-205 amended. Motor vehicle dealers, T&M vehicle dealers, trailer dealers, and motorcycle dealers. Authorizes Virginia-licensed motor vehicle dealers, T&M vehicle dealers, trailer dealers, and motorcycle dealers to act as agents of the Department of Motor Vehicles for the purpose of renewing the registration of any Virginia-registered vehicle. HB 2502; CH. 991

§ 46.2-205.1 added. Department of Motor Vehicles (DMV); customer service pilot project. Establishes a pilot project whereby private business entities perform certain customer transactions with the DMV on behalf of business companies, firms, and corporations. SB 1276; CH. 1023.

§§ 46.2-208 and 46.2-819.1 amended. "Photo-toll" program. Enhances penalties associated with failure to pay a required toll for using a toll facility using a "photo-toll" toll payment enforcement system and explicitly allows the use of "photo-toll" systems on non-VDOT toll facilities. The bill provides a mechanism by which penalties can be assessed against operators of rented and leased vehicles. SB 721; CH. 768.

§ 46.2-214.1. See Budget Bill; HB 1400.

§ 46.2-216.3. See Budget Bill; HB 1400.

§ 46.2-216.4 added. Department of Motor Vehicles (DMV) to provide self-service options to customers. Allows DMV to

provide, at its offices, self-service options that will provide customers with access to the Department's Internet transactions for persons who would prefer to transact their business with the Department via the Internet. HB 2150; CH. 320.

§ 46.2-216.4 added. Department of Motor Vehicles (DMV); The Library of Virginia. Provides for a partnership between DMV and The Library of Virginia to promote use of public library Internet access terminals to complete on-line transactions with the Department. HB 2767; CH. 336.

§ 46.2-221 amended. Visually impaired motorists. Allows certain state agencies to provide appropriate law-enforcement agencies with information regarding blind or otherwise visually impaired persons who continue to operate motor vehicles. HB 1461; CH. 301.

§ 46.2-323. See § 9.1-900; SB 1332.

§ 46.2-330 amended. Driver's license expirations. Provides that driver's licenses will expire on the applicant's birthday, rather than on the last day of the month in which he was born. HB 2674; CH. 333.

§ 46.2-333.1. See Budget Bill; HB 1400.

§§ 22.1-205 and 46.2-334 amended. Driver education. Provides for teaching the behind-the-wheel portion of driver education by home schooling parents. HB 2404; CH. 951.

§ 46.2-334.01 amended. Provisional drivers' licenses. Specifies that a violation of the curfew or passenger restrictions of a provisional driver's license is a traffic infraction and that for a second or subsequent violation the court may suspend the juvenile's privilege to drive for up to six months. Provisional drivers' licenses are initial licenses issued to persons less than 18 years of age and the drivers are restricted in the number of child passengers they may carry and the hours during which they may drive. This bill was recommended by the Committee on District Courts. HB 1786; CH. 308.

§ 46.2-334.01 amended. Driver's licenses for persons less than 18 years old. Limits the number of less-than-18-year-old passengers allowed in a vehicle operated by a driver less than 18 years old to one for the first year of licensure, and thereafter three until the driver turns 18. HB 2257; CH. 323.

§ 46.2-334.01 amended. Youthful drivers. Allows persons under 18 whose driver's licenses have been suspended for a second moving violation to obtain restricted licenses to drive to and from work if there is no other means of transportation by which they can travel to and from work. SB 1190; CH. 771.

§ 46.2-341.16:1 added. Commercial driver's licenses; hazardous materials endorsement. Meets the requirements of the U.S.A. Patriot Act of 2001 which, in part, prohibits issuance by states of commercial driver's licenses with hazardous materials endorsements unless the U.S. Secretary of Transportation certifies that the applicant poses no security risk. HB 1962; CH. 913 (effective-see bill)/SB 1225; CH. 920.

§§ 46.2-341.26:6, 46.2-341.26:7, 46.2-341.26:8, and 46.2-341.26:11 amended. See § 18.2-268.6; HB 1399/SB 972.

§ 46.2-342 amended. Driver's license numbers. Eliminates optional use of social security numbers as driver's license numbers for licenses issued or renewed on or after July 1, 2003. HB 1593; CH. 306.

§ 46.2-342 amended. Hearing or speech impaired drivers. Provides that, when so requested by the licensee and confirmed by a physician's statement, a driver's license may indicate that its holder is hearing or speech impaired. HB 2745; CH. 335.

§ 46.2-391.2. See § 18.2-266.1; HB 2324.

§ 46.2-395 amended. License suspension. Requires the clerk to mail notice of a license suspension within five days of the court's order as opposed to the two days required under current law. SB 816; CH. 218.

§ 46.2-427 amended. License suspensions for failure to pay judgments. Allows a person whose driving privileges, registration certificates, and license plates have been suspended for nonpayment of a judgment to petition the court for reinstatement. The court may order reinstatement even if the judgment has not been satisfied and no longer may be enforced, if (i) the judgment creditor cannot be found and if his heirs cannot be found, and (ii) the judgment debtor has paid into the court an amount equal to the judgment, court costs and all interest. The court is to hold any such payments for one year. If the payment is not claimed by the judgment creditor during that period, the court shall transmit the payments to the State Treasurer or his designee to be disposed of in accordance with the State Unclaimed Property Fund (Chapter 11.1 of Title 55). HB 1944; CH. 316.

§ 46.2-600 amended. Vehicle registrations. Requires applicants for vehicle registrations to supply the Division of Motor Vehicles with the street address of their residence. HB 1440; CH. 297.

§§ 46.2-652, 46.2-653, 46.2-1112, 46.2-1131, 46.2-1133, 46.2-1135, 46.2-1139 through 46.2-1142, 46.2-1143, 46.2-1143.1, 46.2-1144, and 46.2-1146 through 46.2-1149.2 amended; § 46.2-1149.3 added. Oversize and overweight vehicles. Transfers truck oversize and overweight permitting from the Department of Transportation to the Department of Motor Vehicles. HB 1903; CH. 314.

§ 46.2-668 amended. Vehicles used in harvesting. Requires certain vehicles validly registered in other states and used in conjunction with harvesting operations to pay \$100 prior to being issued an exemption permit under § 46.2-668. HB 1995; CH. 896.

§ 46.2-676 amended. Golf carts. Allows operation of golf carts on the public highways in the Town of Cape Charles if the golf carts display slow-moving vehicle emblems, are operated by licensed drivers, and are not operated on Virginia Route 184 east of Fulcher Street. The Town Council of the Town of Cape Charles may, by ordinance, impose additional limitations and restrictions on the operation of golf carts on the public highways within the Town. SB 1074; CH. 105.

§ 46.2-697.1. See Budget Bill; HB 1400.

§ 46.2-725 amended. Special license plates, generally. Reduces from three years to two years the amount of time within which at least 350 prepaid applications for special license plates (except for those specifically exempted from this requirement) must be presented to the Division of Motor Vehicles before those plates are issued. The bill also provides, subject to certain conditions, for the payment to the Department of an administrative fee of \$3,500 in lieu of presentation of any specific number of prepaid applications (and the terms under which such fee may be refunded). Specific provisions are also included to guide the General Assembly's consideration of legislation proposing the authorization of so-called "revenue sharing" special license plates. HB 1492; CH. 923.

§§ 46.2-736.2, 46.2-746.4, 46.2-749.44 amended; §§ 46.2-736.01, 46.2-736.02, 46.2-746.2:2.1, 46.2-746.2:3, 46.2-746.2:4, 46.2-749.5:1, 46.2-749.16:1, and 46.2-749.84 through 46.2-749.90 added. Special license plates. Authorizes several new series of special license plates: members of city councils; members of town councils; members and former members of the 3rd Infantry Regiment ("Old Guard"); supporters of the Mariners' Museum; persons who are emergency medical technicians and paramedics; persons who are both emergency medical technicians or paramedics and firefighters; military parachutists; members of the Special Forces Association; Virginia's coal mining heritage; members of the Air Force Association; supporters of the Children's Hospital of the King's Daughters; Virginia certified hunter education instructors; members and supporters of the Urban League of Hampton Roads; historic covered bridges; supporters of the Leukemia and Lymphoma Society; Friends of Tibet; and supporters of St. Jude Children's Research Hospital. SB 1230; CH. 921.

§ 46.2-746.2:3 added. Special license plates; Special Forces Association. Authorizes the issuance of special license plates to members of the Special Forces Association. These plates would be exempt from the minimums specified in § 46.2-725, but would not be issued unless and until the Division of Motor Vehicles Commissioner receives at least 50 prepaid applications for them and a one-time fee in an amount adequate to offset the normal costs associated with production of special license plates. HB 2708; CH. 932.

§§ 46.2-746.7, 46.2-746.8, 46.2-746.9, 46.2-749.4 amended; §§ 46.2-749.5:1, 46.2-749.28:1, 46.2-749.73:1, and 46.2-749.84 through 46.2-749.88 added. Special license plates. Authorizes the issuance of special license plates: members of the Air Force Association; seals, or localities; members of Job's Daughters; members of the Police Benevolent Association; medical doctors; teachers; Virginia's coal mining heritage; Langley Air Force Base; supporters of the Washington Capitals hockey team; members and supporters of the YMCAs of Virginia; members of the Izaak Walton League; celebrating the members and achievements of the Civilian Conservation Corps; the national motto: "In God We Trust"; and multiple sclerosis. HB 1735; CH. 925.

§ 46.2-746.8 amended; §§ 46.2-746.2:1, 46.2-749.12, 46.2-749.15, 46.2-749.16, 46.2-749.17, 46.2-749.19 through

46.2-749.25, 46.2-749.27, and 46.2-749.30 repealed. Special license plates. Repeals authorization for issuance of special license plates for Eagle Scouts and public safety communications professionals; members of the Navy League, Virginia State Police Alumni, Inc., AHEPA; the 82nd Airborne Division Association, the Amateur Radio Emergency Service, and the National Society of Black Engineers; supporters of public schools, the Boy Scouts of America, and the Chincoteague Pony Association; bearing the legends "Hampton Roads" and "Virginia is for Lovers"; celebrating the history of Fairfax County; and commemorating the 300th anniversary of the City of Falls Church. These plates failed to meet the requirement of § 46.2-725 that at least 350 prepaid applications be received for them by the Department of Motor Vehicles within three years of authorization by the General Assembly. HB 1377; CH. 295.

§§ 46.2-749.23:1 and 46.2-749.84 through 46.2-749.88 added. Special license plates. Authorizes the issuance of revenue-sharing special license plates: Virginia is for Lovers; supporters of the National D-Day Memorial Foundation; commemorating the thirtieth anniversary of Secretariat's winning of horse racing's Triple Crown; supporters of Seton House; supporters of the Interdenominational Children's Foundation of Virginia; and Cold War veterans; fees. HB 1657; CH. 972.

§ 46.2-752 amended. Motor vehicles; failure to pay parking citations. Extends the power of the Commissioner of the Department of Motor Vehicles to refuse to renew motor vehicle registrations when an owner of a vehicle owes delinquent parking citations to the locality where it is registered. This bill does not apply to rental vehicles and expires on July 1, 2005. HB 2483; CH. 326.

§ 46.2-756 amended. Collection of local license fees by Department of Motor Vehicles (DMV). Provides that, when DMV collects local vehicle license fees under an agreement with a locality, the fees received by DMV will be deposited in a fiduciary account and interest on the account will accrue to the benefit of the locality. The bill includes an emergency clause. SB 1337; CH. 293 (effective 3/16/03).

§ 46.2-809 amended. Regulation of truck traffic on secondary highways. Requires the Commonwealth Transportation Board or its designee to act on formal requests from local governing bodies to restrict truck traffic on secondary highways within nine months of receipt of such requests. HB 1457; CH. 300.

§ 46.2-828 amended. Funeral processions. Allows all vehicles traveling in escorted or unescorted funeral processions to display high beam headlights and flash all four turn signals or hazard lights. HB 2329; CH. 853.

§ 46.2-832 amended. Damaging highway signs; penalty. Provides that if a person intentionally damages any legally posted highway sign, he is guilty of a Class 1 misdemeanor. HB 2110; CH. 134.

§ 46.2-870 amended; § 46.2-878.3 added. Prepayment of fines for violations of speed limits. Provides that the Traffic Infractions and Uniform Fine Schedule adopted by the Su-

preme Court for prepayment of fines must, in all instances where prepayment of a fine is permitted, include a fine of five dollars per mile-per-hour in excess of posted speed limits other than those for school crossings under § 46.2-8734, highway work zones under § 46.2-878.1, and certain residence zones under § 46.2-878.2. For these three situations, the Traffic Infractions and Uniform Fine Schedule must include a fine of more than five dollars per mile-per-hour in excess of posted speed limits. HB 1681; CH. 838.

§ 46.2-878.1 amended. Speeding in highway work zones. Increases the maximum fine for speeding in a highway work zone from \$250 to \$500. HB 1733; CH. 839.

§ 46.2-880 amended. Tables of speed and stopping distances. Requires courts to take notice that the table was constructed using scientific reasoning to provide factfinders with an average baseline for motor vehicle stopping distances. Site-specific research may be used under any circumstances. SB 782; CH. 277.

§ 46.2-882 amended. Determining speed of vehicle with various devices; certificate as to accuracy of device. Provides that in any court in which any question arises about the calibration or accuracy of any laser vehicle speed determination device, a certificate showing the calibration or accuracy of any method employed in calibrating or testing any laser is admissible as evidence. Currently, there is no specific provision for allowing laser calibrations into evidence. HB 1430; CH. 965.

§ 46.2-882 amended. Laser speed determination devices. Allows all localities to use laser speed determination devices. HB 2479; CH. 608.

§ 46.2-915.1 amended. All-terrain vehicles. Allows limited over-the-road operation of all-terrain vehicles in Buchanan County. HB 1902; CH. 313.

§ 46.2-920 amended; § 46.2-1029.2 added. Secondary warning lights. Authorizes fire apparatus, government-owned vehicles operated on official business by a local fire chief or other local fire official, and rescue squad vehicles, ambulances, or any other emergency medical vehicles to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights mounted inside the vehicle's taillights or marker lights. These lights must be of a type approved by the Superintendent of State Police. HB 1480; CH. 115.

§ 46.2-947. See § 33.1-223.2:7; SB 1093.

§ 46.2-1001 amended. "Out-of-service" inspections. Allows specially trained law-enforcement officers of all localities to perform "out-of-service" inspections. HB 1680; CH. 82/SB 712; CH. 85.

§§ 46.2-1012, 46.2-1013, and 46.2-1014 amended. Motor vehicle headlights, tail lights, brake lights, and license plate illumination. Requires that motorcycles be equipped with at least one brake light of a type approved by the Superintendent of State Police, and relocates Code provisions allowing motorcycles to be equipped with one break light of a type or more

auxiliary brake lights of types approved by the Superintendent of State Police and requires every motorcycle to have no more than two tail lights and a device so mounted as to illuminate its license plate. HB 1385; CH. 964.

§§ 46.2-1020 and 46.2-1024 amended. Red warning lights. Allows vehicles owned or used by police chaplains to be equipped with red warning lights. These lights could be used only when responding to emergency calls. Only chaplains who have passed a course in operation of a motor vehicle under emergency conditions may use these lights. HB 2795; CH. 153.

§ 46.2-1023 amended. Flashing red or red and white warning lights. Allows vehicles of local Departments of Emergency Management to be equipped with flashing red or red and white warning lights. HB 2685; CH. 152.

§ 46.2-1023 amended. Red or red and white flashing warning lights. Allows vehicles used by security personnel of the Winchester Medical Center to be equipped with flashing red or red and white warning lights. SB 711; CH. 217.

§ 46.2-1025 amended. Green warning lights. Allows use of green warning lights on incident command vehicles. SB 744; CH. 93.

§ 46.2-1029.1 amended. Flashing of headlights on certain vehicles. Allows emergency vehicles in Chesapeake, Poquoson, and York County to use flashing headlights whenever their warning lights are activated. Under current law, they cannot use flashing headlights at night. This bill expires on July 1, 2005. HB 1677; CH. 121.

§ 46.2-1054 amended. Bicycle racks on buses. Permits installation of bicycle racks on the fronts of buses operated by cities, counties, transit authorities, transit districts, or transportation districts. SB 724; CH. 273.

§ 46.2-1085 repealed. Motorcycle handlebars. Repeals provision that limits motorcycle handlebars to 15 inches above seat. HB 1429; CH. 686.

§ 46.2-1118 amended. Towing. Exempts tow trucks towing vehicles by means of a wheel lift apparatus from requirements to have a drawbar and safety chain. HB 1943; CH. 414.

§ 46.2-1143 amended. Overweight permits for certain trucks. Increases the distance that coal trucks traveling under overweight permits may travel from 35 miles to 85 miles. This bill includes an emergency clause. HB 1904; CH. 315 (effective 3/16/03).

§ 46.2-1149.3 added. Overweight permits; specialized mobile equipment. Provides for the issuance of overweight permits for specialized mobile equipment. HB 2797; CH. 1002

§ 46.2-1163 amended. Safety inspection approval stickers; motorcycles. Allows display of safety approval stickers on plates securely fastened to motorcycles for that purpose. HB 2174; CH. 138.

§ 46.2-1220 amended. Regulation of parking by localities. Allows all localities to regulate parking. HB 2269; CH. 32/SB 1220; CH. 773.

§ 46.2-1222.1 amended. Regulation of parking. Allows Fairfax and Prince Williams Counties, by ordinance, to regulate or prohibit the parking of various classes of vehicles. HB 1730; CH. 122.

§ 46.2-1222.1 amended. Parking. Grants Arlington County the same ability as Fairfax and Prince William Counties to regulate or prohibit the parking, on any public highway in the county, of watercraft, boat trailers, motor homes, and camping trailers. SB 1161; CH. 470.

§ 46.2-1231 amended. Vehicle towing, recovery, and storage charges. Requires that fees charged for towing, recovery, and storage of trespassing vehicles be posted at the location where the vehicles are reclaimed. In lieu of posting, a written list of such fees may be provided, whether as part of a receipt or separately, to persons who reclaim the vehicles. HB 1560; CH. 305.

§§ 46.2-1240 and 46.2-1241 amended. Disabled parking. Treats persons with disabilities that create a concern for safety while walking (Alzheimer's patients, etc.) the same as mobility-impaired persons for purposes of issuance of disabled parking placards. HB 2504; CH. 992.

§ 46.2-1305 amended. Residential subdivisions. Allows local governing bodies that have adopted ordinances under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 to require, as a part of such land use regulations for residential subdivisions employing roadways and parking areas not in public ownership, the posting and maintenance of signs or other appropriate markings regulating the operation and parking of motor vehicles and pedestrian traffic. HB 2016; CH. 418.

§§ 46.2-1527.1, 46.2-1527.3, 46.2-1527.5 amended; §§ 46.2-1527.9, 46.2-1527.10, and 46.2-1527.11 added. Motor Vehicle Transaction Recovery Fund. Allows motor vehicle dealers and salespersons to be bonded instead of participating in the Motor Vehicle Transaction Recovery Fund. HB 2604; CH. 331.

§ 46.2-1530 amended; §§ 46.2-1530.1 and 46.2-1530.2 added. Vehicle dealers; on-line system filing fees; manual transaction fees. Provides for, beginning December 31, 2003, collection of on-line filing fees from motor vehicle dealers who use a remote electronic filing system, approved by the Department of Motor Vehicles, to obtain a certificate of title or registration for the purchaser of a vehicle and for the collection of manual transaction fees (for manual transactions in excess of 10 transactions per month) from certain dealers who do not use a remote electronic filing system. Provisions of this bill dealing with manual transaction fees do not become effective until December 31, 2003. HB 2720; CH. 997

§ 46.2-1569.1 amended. Sale or transfer of motor vehicle dealerships. Restricts, in the event of a proposed sale or transfer of a motor vehicle dealership, the conditions under which

manufacturers and distributors have a right of first refusal by treating sale or transfer of a dealership to a limited liability company, corporation, or other entity controlled by a member or members of the family of one or more of the dealership's dealer owners. HB 1443; CH. 298.

§§ 46.2-1600 and 46.2-1605 amended. Salvage vehicles; branded titles. Requires that the titles of both repaired and rebuilt vehicles be permanently branded to show that they are salvage vehicles. The bill also defines "repaired vehicle" as "any salvage vehicle that has had repairs less than the amount necessary to make it a rebuilt vehicle." HB 1521; CH. 304.

§§ 46.2-1993, 46.2-1993.6, 46.2-1993.25, and 46.2-1993.64 amended. Motorcycle dealers. Deems all-terrain vehicles and off-road motorcycles to be motorcycles for the purpose of Chapter 19.2 (Motorcycle Dealers) of Title 46.2 (Motor Vehicles) of the Code of Virginia. Dealers who sell only all-terrain vehicles or off-road motorcycles, however, are excluded from application of the chapter. Manufacturers of all-terrain vehicles and off-road motorcycles are exempted for licensure as motorcycle dealers. The bill also clarifies procedures to be followed in handling protests under the motorcycle dealer franchise law. HB 2681; CH. 334.

§§ 46.2-2011.6 and 46.2-2121 amended. Motor vehicle fees. Amends the statutes that authorize the Department of Motor Vehicles to charge vehicle fees for passenger and property carriers. This bill modifies these statutes to clarify the purpose of motor carrier vehicle fees and identify the entities that must pay these fees. HB 2153; CH. 322.

§ 46.2-2099.41 amended. Excursion trains. Adds Buchanan County, by population, to the list of counties in which a person may predominantly operate an excursion train and be certified as an excursion train operator by the Department of Motor Vehicles. Excursion trains are passenger trains primarily used for tourism or public service, and that leads to the promotion of the tourist industry in the Commonwealth. Certified operators must carry at least \$10 million in liability insurance for injuries to persons or property and cannot also own or operate a regularly scheduled passenger train service with interstate connection. SB 1181; CH. 286.

§§ 46.2-2100 and 46.2-2101 amended. Courier vehicles. Exempts courier vehicles from regulation as motor carriers of property. SB 1263; CH. 832.

TITLE 47.1. NOTARIES AND OUT-OF-STATE COMMISSIONERS.

§ 47.1-19 amended. Fees of public notaries. Increases the maximum fees of public notaries from two dollars to three dollars. SB 1187; CH. 881.

TITLE 50. PARTNERSHIPS.

§§ 50-73.1, 50-73.2, 50-73.48:1, 50-73.48:3, 50-73.48:4, 50-73.84, 50-73.128, 50-73.130, and 50-73.144. See § 13.1-603; SB 861.

§ 50-73.2. See § 13.1-316; HB 1753.

§§ 50-73.5, 50-73.48:3, and 50-73.135. See § 13.1-635; HB 1829.

§ 50-73.57. See § 13.1-1055; SB 851.

§§ 50-73.79, 50-73.83, 50-73.93, 50-73.115, 50-73.121, and 50-73.131 amended. Uniform Partnership Act statements. Establishes the requirements for renewing a statement of partnership authority filed with the State Corporation Commission, and clarifies other provisions of the Uniform Partnership Act regarding the filing of statements of partnership authority, dissociation, dissolution, and merger. The filing of a renewal will restart the five-year effective life of a statement of partnership authority. A statement of partnership authority must be amended whenever the partnership changes its name. A statement of partnership authority must be filed prior to the filing of a statement of dissociation or dissolution. Statements of merger must be executed by each party to the merger, and are only effective as to a partnership that has a statement of partnership authority on file with the Commission. Finally, the measure provides that the term "statement," for purposes of the Uniform Partnership Act, includes a renewal of a statement of partnership authority. SB 881; CH. 567.

§§ 50-73.11, 50-73.54, 50-73.132, and 50-73.138 amended; § 50-73.137:1 added. Limited partnerships and limited liability partnerships. Clarifies that the cancellation of a limited partnership's certificate of limited partnership or a foreign limited partnership's certificate of registration to transact business as a limited partnership automatically cancels its registration as a domestic or foreign registered limited liability partnership. The method for, and effect of, restoration of status are set out. The measure also includes provisions requiring (i) that the registering partnership's name complies with current requirements; (ii) that a registering partnership identifies its State Corporation Commission identification number, if any; (iii) a statement of the principal office's street address, if one exists; and (iv) a limited partnership to list in its statement of registration the registered office and registered agent on file with the Commission. SB 945; CH. 378.

TITLE 51.1. PENSIONS, BENEFITS, AND RETIREMENT.

§ 51.1-124.3 amended. Virginia Retirement System; creditable compensation. Eliminates provisions that require the

Board of Trustees of the Virginia Retirement System to determine the value of certain nonmonetary compensation paid to employees for purposes of determining creditable compensation for retirement. SB 1038; CH. 628.

§ 51.1-124.4 amended. Virginia Retirement System; payment of an eligible rollover distribution to an eligible retirement plan. Provides compliance with the direct plan-to-plan transfer provisions of Internal Revenue Code § 401(a)(31) and the regulations thereunder. HB 2116; CH. 15.

§ 51.1-124.12 amended. Virginia Retirement System; withdrawing employers. Authorizes the Virginia Retirement System ("VRS") to enter into an agreement with a VRS employer to assume the pension liabilities of an employer who withdraws from VRS. Retired members of the withdrawing employer shall have their retirement allowances paid by the employer who agrees to assume such liabilities. Vested members of withdrawing employers who are not retired can elect to either cash out or have their retirement allowances paid by the employer agreeing to assume such liabilities.

In general, the employer who agrees to assume the pension liabilities of a withdrawing employer shall receive from VRS 105 percent of the present value of the remaining pension liabilities after cashing out by vesting members. Such funds shall be paid from the withdrawing employer's VRS pension accounts and shall be used to pay the pension liabilities for former VRS employees of the withdrawing employer. Any remaining funds in the VRS pension accounts of the withdrawing employer shall be distributed to VRS employers who provided funding to the withdrawing employer. HB 2556; CH. 267.

§ 51.1-124.22 amended. Virginia Retirement System; losses of deferred compensation and defined contribution retirement plans. Provides that the Commonwealth, the Board of Trustees of the Virginia Retirement System ("VRS"), the employees of VRS, and the Investment Advisory Committee of VRS shall not incur any liability for losses suffered by deferred compensation and defined contribution retirement plans administered by VRS. HB 1986; CH. 11.

§§ 51.1-124.22 and 51.1-126 amended. Virginia Retirement System; administrative fees. Provides that the Virginia Retirement System (VRS) may charge and collect administrative fees to pay its costs incurred in administering and overseeing any retirement plan or service award fund other than the Virginia Retirement System, State Police Officers' Retirement System, Virginia Law Officers' Retirement, or the Judicial Retirement System. The bill also authorizes VRS to charge and collect from participating employers any penalties, interest, compliance fees, or other charges charged to VRS by the Internal Revenue Service or other regulatory body. Persons employed in teaching, administrative or research functions at institutions of higher education who are enrolled in an optional retirement plan may be charged with a reimbursement fee by their employer for purposes of recovering VRS charges for administering and overseeing the optional retirement plan. SB 857; CH. 626.

§§ 51.1-126 and 51.1-126.3 amended. Optional retirement plans of institutions of higher education. Authorizes institutions of higher education to establish their own optional retirement plans for employees engaged in the performance of teaching, administrative, or research duties, as an alternative to the Virginia Retirement System (VRS) defined benefit retirement plan. The bill provides that VRS shall give initial approval to institutions of higher education seeking to establish such optional retirement plans. The bill prohibits such institutions from adopting policies that are substantially different than the retirement policies approved by VRS in the initial approval process unless the VRS Board approves such policies in writing. Prior to granting to any institution of higher education approval to establish its own optional retirement plan, VRS shall release a plan to the chairmen of the Senate Committee on Finance and the House Appropriations Committee establishing criteria and guidelines VRS shall apply in granting approval for such optional retirement plans.

Any employee hired on or after July 1, 2003, by an institution of higher education to perform such duties, shall make an election to participate in either the VRS defined benefit retirement plan or in an optional retirement plan. If an employee chooses to participate in an optional retirement plan but the institution of higher education has not established its own optional retirement plan, the employee shall participate in an optional retirement plan maintained by VRS. However, at such time that the institution establishes its own optional retirement plan, any employee (i) engaged in the performance of teaching, administrative, or research duties and (ii) participating in an optional retirement plan, shall immediately begin to participate in the optional retirement plan of the institution, notwithstanding any prior election to participate in a different optional retirement plan.

The bill provides different options for University of Virginia Medical Center employees. Any employee of the Medical Center hired on or after July 1, 2003, shall participate in the optional retirement plan of the Medical Center, provided, however, that if such employee was participating in the VRS defined benefit retirement plan immediately prior to such hiring, such employee may elect to continue to participate in the defined benefit retirement plan. SB 849; CH. 369.

§§ 51.1-138, 51.1-202, 51.1-205, and 51.1-206 amended. State Police Officers' Retirement System. Provides that state police officers in service at age 60 or older with five or more years of service may elect to retire and to continue to receive their retirement allowance while employed as an employee of the Department of State Police. The bill also provides that state police officers, between the ages of 55 and 59, with five or more years of creditable service who (i) have been rehired as an employee of the Department of State Police and (ii) have been receiving a service retirement allowance for at least 30 days prior to such reemployment may elect to continue to receive such service retirement allowance while an employee of the department. The bill limits the number of years that a person may receive a retirement allowance while an employee of

the Department of State Police to two. The provisions of the bill sunset on July 1, 2005. SB 812; CH. 624.

§ 51.1-142.2 amended. Virginia Retirement System; credit for service in the armed forces. Changes the requirements under which a member may receive retirement credit for service in the armed forces to conform to requirements under federal law. Under Virginia law, a member may receive retirement credit at no cost for service in the armed forces if the member (i) was on leave of absence from a covered position, (ii) was not dishonorably discharged, (iii) has not withdrawn his accumulated contributions, and (iv) has reentered service in a covered position within one year of discharge from the armed forces. However, under Virginia law, retirement credit is not granted for service in the armed forces for reenlistments that follow the cessation of hostilities. Federal law, however, provides that any service in the armed forces, when performed on a leave of absence, is eligible for retirement credit upon a person's reemployment with his employer, regardless of whether the service is in wartime. HB 1717; CH. 7.

§ 51.1-142.3 added. Virginia Retirement System; purchase of prior service credit. Provides that school division superintendents may purchase an additional 10 years of retirement service credit for prior service for the Commonwealth or another state (this is in addition to the four years under law that may already be purchased). The cost for each additional year of service shall equal 10 percent of the superintendent's compensation at the time of purchase, provided that the additional retirement service is purchased within one year of the superintendent's eligibility and is paid for in one lump-sum payment to the Virginia Retirement System. For each year of service purchased under the bill, the school division superintendent is required to serve the same number of years as a school division superintendent subsequent to the date of purchase. Any school division superintendent who fails to serve the required number of years shall forfeit any credited service for the number of years not served and shall be liable to his local board for any amount paid by it for purchasing the forfeited prior service credit. HB 2122; CH. 947.

§ 51.1-155 amended. Virginia Retirement System; teachers. Clarifies that certain retired teachers who resume teaching duties without cessation of their retirement benefits may do so under successive one-year contracts. The bill also sunsets this benefit on July 1, 2005. HB 2438; CH. 211.

§§ 51.1-155.1 and 51.1-505 amended. Virginia Retirement System; life and accidental death and dismemberment insurance. Provides that any employee who (i) at any time had at least 25 years of creditable service in any retirement plan administered by the Virginia Retirement System or other Virginia public plan participating in the group life program and (ii) is employed in a covered position within 24 months prior to his retirement earning an annual salary less than the annual salary earned in his immediately prior covered position, shall be eligible for an amount of group life insurance at an amount equal to twice the amount of his annual salary earned in his immediately prior covered position. The Bill also provides that for any

employee who returns to covered employment after retiring with at least 25 years of creditable service in any retirement plan administered by the Virginia Retirement System or other Virginia public plan participating in the group life program, the amount of life insurance shall be the greater of the amount of insurance he would have been eligible for had he remained a retiree or twice the amount of his current annual salary. The bill provides that the face value of such life insurance shall be reduced as currently provided under law. SB 905; CH. 220.

§ 51.1-165 amended. Virginia Retirement System. Restores the level income option that was removed in the 2001 Session by allowing a retiree to receive a temporarily increased retirement allowance for a defined period of time and then to receive an allowance reduced on an actuarially equivalent basis. HB 2487; CH. 263.

§ 51.1-505 amended. Virginia Retirement System; group life insurance program. Deletes the requirement that service must have been continuous in calculating the threshold 60 months of service required to continue life insurance benefits after a service or disability retirement. HB 1791; CH. 9.

§§ 51.1-1112 and 51.1-1123 amended. Virginia Sickness and Disability Program. Clarifies that annual increases in long-term disability payments are to be determined by the actuary of the Virginia Sickness and Disability Program. HB 2053; CH. 13.

§§ 51.1-1114 and 51.1-1125 amended. Virginia Retirement System; disability benefits. Clarifies that state disability benefits are not to be offset by certain benefits received by a participating employee for service in the United States armed forces. HB 1622; CH. 5.

§ 51.1-1400 amended. Health insurance credits for retired state employees. Removes the monthly credit cap of \$120. The bill is not effective unless reenacted by the 2004 General Assembly. HB 2620; CH. 909 (effective-see bill).

TITLE 51.5. PERSONS WITH DISABILITIES.

§§ 51.5-3, 51.5-4, and 51.5-5 amended; § 51.5-14.01 added; §§ 51.5-5.1, 51.5-6, and 51.5-9.01 repealed. Merger of Board of Rehabilitative Services and the State Rehabilitation Council. Eliminates the Board of Rehabilitative Services and merges its responsibilities into the State Rehabilitation Council. The responsibility of promulgating regulations regarding human research is also transferred to the Commissioner of the Department of Rehabilitative Services. The Board advises the Governor, Secretary of Health and Human Resources and the Department of Rehabilitative Services on the delivery of public services to and protection of the rights of persons with disabilities. The two collegial bodies share oversight responsibilities on two-thirds of the Department's programs. The Council's responsibilities can be naturally extended to include the other non-vocational rehabilitation

programs of the Department. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 1969; CH. 73/ SB 957; CH. 57.

§§ 51.5-23, 51.5-24, and 51.5-25 amended. Persons with disabilities; community services. Broadens the goals of the program for community services for persons with disabilities to promote the philosophy of independent living and provide financial assistance for expanding and improving the provision of independent living services. Eligible applicants for grants must now be consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies and agencies must be established for the sole purpose of operating a center for independent living. Cities and counties will no longer be considered eligible providers and local governing bodies will no longer have the power to review the budgets of applicants. Specific independent living services to be provided shall be in accordance with the federal Rehabilitation Act of 1973, as amended. HB 2101; CH. 503.

§ 51.5-31 amended. Virginia Board for People with Disabilities. Changes the membership of the Virginia Board for People with Disabilities to require that the representative of a nongovernmental agency or group of agencies be an actual provider of services for persons with developmental disabilities. HB 1987; CH. 501.

§ 51.5-39.2. See § 30-156; SB 1315.

§ 51.5-39.2 amended. Virginia Office for Protection and Advocacy. Clarifies that all initial appointments and appointments to fill vacancies to the Virginia Board for Protection and Advocacy, regardless of appointing authority, i.e., the Governor, the Speaker of the House of Delegates, or the Senate Committee on Privileges and Elections, must be confirmed by the General Assembly. This bill is a technical correction to House Bill 9 of 2002. This bill contains an emergency clause. HB 1569; CH. 236 (effective 3/16/03).

TITLE 52. POLICE (STATE).

§§ 2.2-1161.1, 22.1-16.2, 52-34.1, 52-34.2, and 52-34.3 added. Code Adam alerts; Virginia Amber Alert Program. Requires state buildings open to the public to have a Code Adam program as a preventive tool against child abductions and for locating lost children in certain public buildings. The alerts are used to lock down buildings where a child has been lost or possibly abducted. The bill requires the Board of Education to develop, in cooperation with private entities, a program to provide parents with child identification kits through school distribution. The kits shall include identification information about the subject child, including current photo, fingerprints, DNA samples, and important medical information and shall include instructions for the proper safekeeping of the kit. Such

kits shall be held for safekeeping by the parent, not a school, school board, or other public entity.

The bill also directs the Department of State Police to develop a statewide child abduction alert plan (the Virginia Amber Alert Plan) to rapidly publicize information on a child abduction. Pursuant to procedures developed by the Department of State Police, local law enforcement will notify the Department of State Police, who will take action, including activating the emergency alert system. The bill provides that the Virginia State Police shall inform all local law-enforcement agencies operating or participating in the Amber Alert programs when this bill becomes law and shall offer them assistance in conforming their programs to the provisions of the bill. HB 1832; CH. 83/SB 1204; CH. 86.

TITLE 53.1. PRISONS AND OTHER METHODS OF CORRECTION.

§ 53.1-10. See § 37.1-42.1; HB 2309.

§§ 2.2-2101, 53.1-10, and 53.1-45.1 amended; §§ 53.1-45.2 through 53.1-45.5 repealed. Virginia Correctional Enterprises Advisory Board. Abolishes the Virginia Correctional Enterprises Advisory Board. The Board reviews new products and services manufactured or produced by Virginia Correctional Enterprises and their pricing structure, evaluates the level and quality of products and customer services and makes recommendations, and advises the Director on business trends, product development, contract opportunities, and other related matters. The Board has not been able to function to the full capacity of its mandate in evaluating and scrutinizing products and services of Virginia Correctional Enterprises. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 2427; CH. 854/SB 764; CH. 94.

§ 53.1-31.1 amended. Auxiliary police forces. Allows the use of certain auxiliary police forces to transport prisoners with the concurrence of the sheriff. HB 2716; CH. 154.

§§ 53.1-37 and 53.1-132 amended. State and local correctional facilities; furloughs. Provides that the time during which a prisoner is on furlough shall not be counted as time served against any sentence, and during any furlough, the prisoner shall not be credited with earned sentence credits, good conduct allowance or any other sentence reduction. HB 2004; CH. 846.

§ 53.1-52. See § 2.2-106; HB 1926/SB 1247.

§§ 53.1-116 and 53.1-129 amended. Jail policies. Provides that jailers shall keep a written policy stating the criteria and condition of earned credit in the facility; clarifies the rate for earning good conduct credit for prisoners convicted of misde-

meanors; and provides that in order for a prisoner to work on certain properties on a voluntary basis (in order to receive credit on his sentence for the work done), orders must be specific for identified individual prisoners. The bill also provides that for all offenses committed on or after July 1, 2003, any order that does not specifically identify individual prisoners shall be void. This bill is a recommendation of the Virginia State Crime Commission. HB 2180; CH. 818/ SB 1146; CH. 820.

§§ 53.1-116.1 and 53.1-160.1. See § 9.1-900; SB 1332.

§ 53.1-120 amended. **Courthouse and courtroom security; assessment.** Eliminates the "July 1, 2004," sunset on the provision that allows any county or city to assess a sum not in excess of five dollars as part of the costs in each criminal or traffic case in its district or circuit court in which the defendant is convicted that is collected by the clerk of the court, remitted to the treasurer and held by the treasurer subject to appropriation by the governing body to the sheriff's office for the funding of courthouse security. HB 1382; CH. 26.

§ 53.1-120 amended. **Sheriffs; courthouse security.** Removes the sunset on the provision that allows a portion of the costs assessed on criminal and traffic cases, in which the defendant is convicted, to be used for courthouse security. SB 1069; CH. 44.

§§ 53.1-126 and 53.1-133.01:1 amended. **Financial responsibility of sheriffs and localities for medical treatment of inmates.** Clarifies that a sheriff, jail superintendent or a locality is not required to pay for the medical treatment of an inmate for an injury, illness, or condition that existed prior to the inmate's commitment to a local or regional facility, except that medical treatment shall not be withheld for any communicable diseases or life-threatening conditions. HB 2222; CH. 928/SB 1169; CH. 1019

§ 53.1-131.1. See § 16.1-69.48:1; SB 1129.

§ 53.1-131.3 added. **Corrections; payment of costs by local inmates.** Allows local sheriffs and jail superintendents to establish a program under which they would charge each inmate in their facility a reasonable fee, not to exceed one per day, to defray the costs of his keep. The Board of Corrections would develop a model plan and adopt regulations to govern such a program. The funds generated would stay with the locality where collected to be used for general jail purposes. HB 2765; CH. 860.

§ 53.1-136 amended. **Notice of release on parole.** Requires the Parole Board to notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced by certified mail at least 21 business days prior to release on discretionary parole of any inmate convicted of a felony and sentenced to a term of 10 or more years. Currently, the Board is required to notify of release for any type of parole, not solely discretionary parole. HB 1924; CH. 132.

§§ 53.1-140, 53.1-142, 53.1-143, 53.1-144, and 53.1-145 amended. **Probation and parole services; powers and duties of the director of the Department of Corrections.** Modifies

the appointment process for probation and parole officers so that they become classified state employees with judicial authorization to serve as an officer of the court instead of being appointed by the circuit court judges. Transfers may not be effected without the concurrence of the officer. The Director, after consultation with the court, designates supervisory staff for probation and parole officers. This provision applies only to those officers appointed after July 1, 2003. HB 1782; CH. 944.

§ 53.1-155.1 added. **Parole; community-based programs.** Permits the Department of Corrections to give prisoners who have not been convicted of a violent crime and who have been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in residential community programs, work release, or community-based programs approved by the Secretary of Public Safety within six months of such prisoner's projected or mandatory release date. HB 2245; CH. 850.

§ 53.1-231.2 amended. **Restoration of civil right to register to vote.** Changes the definition of "violent felony," which if committed serves as a disqualifying event for any person seeking to restore his right to be eligible to register to vote. Currently, in this statute "violent felony" includes: homicide, mob violence, abduction and kidnapping, various types of assaults and bodily woundings, robbery, threats of bodily injury, and criminal sexual assaults. Also currently, the definition includes the conspiracy to commit such felonies and principals in the second degree and accessories before the fact. The proposed change would add: burglary and related offenses, personal trespass by computer, certain offenses committed against railroads and other utilities, various firearms and weapons offenses, prostitution, sodomy, various crimes against children, various obscenity offenses, certain offenses causing riots and prohibited paramilitary activity, obstruction of justice, escapes by prisoners, conspiracy to incite one race against another, and certain felonies committed by prisoners that are listed in § 53.1-203. The proposed change includes the conspiracy and the attempt to commit such added felonies and the commission of any substantially similar offense under the laws of the United States or its territories, or of another state, or of the District of Columbia. HB 2020; CH. 946.

TITLE 53.1. MISCELLANEOUS - PRISONS AND OTHER METHODS OF CORRECTION.

Buckingham Correctional Center. Authorizes the Department of Corrections to exchange a certain parcel of land adjacent to the Buckingham Correctional Center for a parcel owned by a private landowner. HB 2719; CH. 746.

TITLE 54.1. PROFESSIONS AND OCCUPATIONS.

§§ 32.1-27, 54.1-111, 54.1-2400, 54.1-2400.2, 54.1-2400.3, 54.1-2401, 54.1-2505, 54.1-2506, 54.1-2906, 54.1-2908, 54.1-2909, 54.1-2911, 54.1-2915, and 54.1-3480 amended; §§ 32.1-125.01, 54.1-2408.2, and 54.1-2506.01 added; §§ 54.1-2921 and 54.1-3218 repealed. Health regulatory boards; disciplinary procedures and reporting requirements. Lowers the disciplinary standard for persons licensed by the Boards of Medicine and Physical Therapy from gross negligence to simple negligence. The bill creates a confidential consent agreement that may be used by a health regulatory board (board), in lieu of discipline, in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner. A board shall not be able to use the confidential consent agreement if it believes there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in a manner as to be a danger to patients or the public. Such agreements will include findings of fact and may include an admission or a finding of a violation. Such agreements may be used by a board in future disciplinary proceedings. The bill provides that before reinstatement to practice, a three-year minimum period must elapse after the revocation of the certificate, registration or license of any person regulated by one of the boards; however, individuals who have had their licenses revoked by a health regulatory board are grandfathered and subject to provisions concerning reinstatement in effect prior to July 1, 2003. Existing reporting requirements by hospitals, health care institutions, health professionals and others concerning disciplinary actions, certain disorders, malpractice judgments, and settlements are clarified concerning timing for the reports, mandated reporters and the information required to be reported to the Board of Medicine. The bill excludes from reporting by hospitals and health care institutions certain health professional misconduct if it is reported to a peer review panel. Civil penalties for failure to report are increased up to a maximum of \$25,000 for hospitals and health care institutions and \$5,000 for all others. Certification, registration and licensure are conditioned upon the payment of such penalties. The confidentiality of the reported information is clarified. In addition, the Department of Health Professions' biennial reporting requirements on disciplinary actions by each of the health regulatory boards is clarified. The Department is given increased authority to regulate unlicensed practice and is directed to investigate all complaints within the jurisdiction of the relevant health regulatory board. Finally, the bill requires the executive committee of the Board of Medicine to include two citizen members. HB 1441; CH. 762 (effective-see bill)/SB 1334; CH. 753 (effective-see bill).

§ 54.1-116 amended. Health professions; licensing. Provides an exemption from the requirement that an applicant for a li-

cense, certificate or other registration to practice a health profession provide a social security number or control number for those foreign nationals who are otherwise qualified but who cannot provide a social security number or control number at the time of application. The temporary license or authorization to practice shall be effective for no longer than 90 days. The bill has an emergency effective date. HB 2651; CH. 803 (effective 3/20/03).

§ 54.1-204 amended. Professions and occupations; prior criminal history. Enumerates criteria a regulatory board must use to determine whether a person may be denied a professional license based on a prior criminal conviction. The bill also authorizes the regulatory board or department to request of applicants information and identifiers to perform a national and state criminal records check. SB 1293; CH. 582.

§§ 36-96.1:1, 36-96.2, 36-96.8, 36-96.20, and 54.1-300, amended; §§ 54.1-2343 and 54.1-2344 added. Department of Professional and Occupational Regulation; creation of Fair Housing Board. Creates the Fair Housing Board at the Department of Professional and Occupational Regulation to administer and enforce the provisions of the Fair Housing Law. Currently, such authority is vested with the Real Estate Board. The bill sets out the membership and terms of the Fair Housing Board. The bill authorizes the Fair Housing Board to establish, by regulation, an education-based certification or registration program, as the Board deems appropriate. The Fair Housing Board has no authority to discipline persons licensed by the Real Estate Board who violate the Fair Housing Law; this authority will remain with the Real Estate Board. The bill contains technical amendments. SB 1102; CH. 575 (effective-see bill).

§ 54.1-600 amended; § 54.1-607 added. Department of Professional and Occupational Regulation; Auctioneers Board. Prohibits the use of advertisements containing false, misleading, or deceptive statements, with respect to types or conditions of merchandise offered at auction, why merchandise is being sold, who has ownership, where the merchandise was obtained, or the terms and conditions of the auction and sale. The bill also provides that if an auctioneer advertises an auction sale of real property as "absolute," all lots included in the sale must meet that criteria. "Absolute auction" is defined as an auction where at the time of the auction sale the real or personal property to be sold will pass to the highest bidder regardless of the amount of the highest and last bid. SB 761; CH. 367.

§§ 54.1-700, 54.1-701, 54.1-703, and 54.1-704.1 through 54.1-706 amended; § 54.1-703.2 added. Board of Barbers and Cosmetology; regulation of hair braiders. Provides for a separate category of licensure for individuals wishing to perform hair-braiding services only. The bill also permits licensed cosmetologists to perform hair braiding without a separate license; exempts from licensure any braider working in a licensed cosmetology salon under the direct supervision of a licensed cosmetologist; and includes a waiver of examination for individuals who apply in the first year and have at least three years of documented work experience, completed a training

program satisfactory to the Board, or have a certificate or license as a hair braider from another jurisdiction. This bill contains an emergency clause. § 20-103. See § HB 1941; CH. 600 (effective 3/18/03).

§ 54.1-1101 amended. Board for Contractors; exemptions; penalty. Provides that any person exempt from licensure as a contractor because he is building a residence on his own property must obtain a certificate of occupancy prior to conveying it to a third party purchaser unless the purchaser consents to the purchase without the certificate of occupancy being issued. The bill also provides that any person found to have violated this requirement shall be guilty of a Class 1 misdemeanor. The third or subsequent conviction during a 36-month period shall constitute a Class 6 felony. SB 1290; CH. 1025

§§ 54.1-1106, 54.1-1108, 54.1-1108.1, 54.1-1108.2, and 54.1-1130 amended. Board for Contractors; application affidavits. Removes the requirement for applicants to notarize their applications for licensure. The purpose behind the bill is move to on-line acceptance of applications through My Virginia PIN. HB 1749; CH. 892.

§ 54.1-1115 amended. Board for Contractors; prohibited acts. Clarifies that no person shall be entitled to assert the lack of licensure or certification as a defense to any action at law or suit in equity if the party who seeks to recover from such person gives substantial performance within the terms of the contract in good faith and without actual knowledge that a license or certificate was required to perform the work for which he seeks to recover payment. HB 2414; CH. 429.

§ 54.1-1115 amended. Board for contractors; prohibited acts by awarding authorities. Clarifies that receiving or considering as the awarding authority a bid from anyone whom the awarding authority knows is not properly licensed or certified is prohibited. HB 2415; CH. 430.

§ 54.1-1805 amended. Department of Professional and Occupational Regulation; Polygraph Examiners. Provides for the Director of the Department of Professional and Occupational Regulation to authorize the use by licensed polygraph examiners of instruments other than polygraphs that record physiological changes pertinent to the determination of truthfulness or the verification of the truth of statements. HB 2812; CH. 545/SB 1296; CH. 554.

§ 54.1-2105 amended. Real Estate Board; continuing education for licensees. Increases the continuing education requirements for real estate licensees of the Real Estate Board from eight to 16 hours. The bill requires new licensees to complete 30 hours of specialized training in the first two years of licensure and provides that a portion of the continuing education hours must occur in a classroom setting and not by correspondence or distance learning. In addition, the bill provides an emergency extension for compliance with the licensure and certification requirements for persons on active military duty during 2003 for a period of one year after being released from active duty. The bill contains technical amendments. HB 2723; CH. 998/SB 1324; CH. 1027.

§ 54.1-2206 amended. Department of Professional and Occupational Regulation; soil scientists. Clarifies that the waiver of the examination for certification as a soil scientist ends on July 1, 2004, for those individuals with 10 years of experience. HB 2759; CH. 447.

§ 54.1-2400.02 added. Information concerning health professionals; posting of home addresses on the Internet. Mandates that, in order to protect the privacy and security of health professionals, every health regulatory board posting addresses of record for regulated persons to the on-line licensure lookup or any successor in interest thereof on the Internet shall only disclose the city or county provided to the Department of Health Professions and shall not include any street, rural delivery route or post-office address. However, the street address of facilities regulated by the Boards of Funeral Directors and Embalmers, Nursing, Pharmacy, and Veterinary Medicare shall be posted. HB 1820; CH. 310.

§ 54.1-2400.5 added. Defaults on certain educational loans; health care professional and occupational license suspension. Authorizes an obligee to petition for the suspension of any state-issued license to engage in a health care profession or occupation when an obligor is delinquent or in default in the payment of a federal or state guaranteed educational loan or work-conditioned scholarship. Thirty days' notice must be given prior to filing the petition. The circuit court in the jurisdiction in which the obligor resides will order the suspension of the license under certain circumstances and provide a copy of the order to the relevant board within the Department of Health Professions. The court may order reinstatement of the license upon compliance with payment terms by the obligor. HB 1792; CH. 975.

§ 54.1-2405 amended. Transfer or copies of patient records upon the sale or relocation of a practice. Requires practitioners who are relocating a professional practice to notify the patient at his last known address and by newspaper publication of such relocation. Present law requires this notice in the case of a sale of a practice. The notice must also disclose the charges, if any, that will be billed by the practitioner for providing the patient copies of his records. The charges for retrieval, copying, and mailing medical records set forth in § 8.01-413 shall not apply to requests for medical records because of a sale or relocation of a professional practice. HB 1870; CH. 912/SB 799; CH. 917.

§ 54.1-2506.1 amended. Health practitioner contact information for a public health emergency. Grants the Department of Health Professions (Department) the authority to require certain health practitioners to report any e-mail address, telephone number and facsimile number that may be used to contact them in the event of a public health emergency. Such e-mail addresses, telephone numbers and facsimile numbers shall not be published, released or made available for any other purpose. The Director of the Department shall adopt emergency regulations to identify who must report and the procedures for reporting. This bill contains an emergency clause. HB 2182; CH. 602 (effective 3/18/03).

§ 54.1-2701 amended. Health professions; practice of dentistry. Clarifies that the all-volunteer, nonprofit organizations providing donated services by dentists and dental hygienists who are not licensed in the Commonwealth may have paid employees and do not have to meet the criteria of providing services "throughout the world." The bill contains an emergency provision. HB 1900; CH. 495 (effective 3/16/03).

§§ 54.1-2800, 54.1-2803, 54.1-2806, 54.1-2814.1, and 54.1-2818.3 amended. Board of Funeral Directors and Embalmers; inspection of crematories. Authorizes the Board of Funeral Directors and Embalmers to inspect both registered crematories and crematories licensed as a funeral service establishment. Currently, a crematory offering services directly to the public must be licensed as a funeral service establishment and is subject to inspections and disciplinary sanction by the Board. This bill clarifies that registered crematories (those providing services only to a funeral home) must be registered and are subject to inspection and disciplinary sanctions for operating in a manner that may endanger the public health, safety or welfare. HB 2125; CH. 505.

§ 54.1-2820 amended. Preneed funeral contracts through irrevocable trusts. Clarifies that preneed funeral contracts executed through an irrevocable trust are not revocable and, therefore, qualify as a resource exclusion under Medicaid or other federal or state needs-based assistance programs. The bill creates an exception to the law that preneed funeral contracts shall be subject to termination if a person establishes an irrevocable burial trust, or an amount in an irrevocable trust that is specifically identified as available for burial expenses, where (i) a person irrevocably contracts for funeral goods and services, such person funds the contract by prepaying for the goods and service, and the funeral provider residing or doing business within the Commonwealth subsequently places the funds in a trust; or (ii) a person establishes an irrevocable trust naming the funeral provider as the beneficiary; however, such person shall have the right to change the beneficiary to another funeral provider. HB 2418; CH. 663/ SB 1261; CH. 673.

§ 54.1-2901. See § 32.1-145; HB 1961.

§ 54.1-2901 amended. Licensure and other regulatory requirements of certain persons in the medical and healing arts. Authorizes certain registered nurse agents of the Virginia Health Department to order tests of sputum for tubercle bacilli from the Division of Consolidated Laboratories. HB 2301; CH. 514.

§ 54.1-2901 amended. Registered nurses; delegation to conduct physical examinations of children. Provides an exemption to the medical practice act authorizing physicians of medicine and osteopathy or nurse practitioners to delegate to registered nurses under their supervision the authority to screen and test children for elevated blood-lead levels when such tests are conducted in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing must be done at the direction of a physician or a nurse

practitioner. This bill is a recommendation of the Joint Subcommittee Studying Lead Poisoning Prevention. In other states where this delegation is authorized, the elevated blood-lead screening is more effectively implemented. In addition, the screening may cost less than when conducted by a physician. HB 2477; CH. 519.

§ 54.1-2906 amended. Health regulatory board investigations. Requires the executive officer and the chief of staff of every hospital or other health care institution to report to the Board of Medicine within 30 days the knowledge of any health impairment that may render a health professional a danger to himself, the public or his patients; any unethical, fraudulent or unprofessional conduct; any disciplinary action taken by the hospital or other health care institution; and any voluntary resignation from the staff. The hospitals and other health care institutions must make such reports within 30 days, except that reports concerning the commitment or admission of a health professional as a patient shall continue to be made within five days of when the chief administrative officer learns of the commitment or admission. Any person who fails to make a required report will be subject to a civil penalty not to exceed \$25,000, as assessed by the Director of the Department of Health Professions, and to denial of licensure or certification unless the penalty has been paid. SB 920; CH. 456.

§ 54.1-2935 amended. Foreign medical school graduates' requirements for admission to examination and licensure by the Board of Medicine. Reduces the required postgraduate training in a hospital for certain foreign medical school graduates from three years to two years of such training. Reportedly, the Virginia Board of Medicine's three-year requirement is among the most stringent in the country. HB 2610; CH. 996.

§ 54.1-2936 amended. Limited licenses to certain graduates of foreign medical schools. Authorizes the Board of Medicine to issue a limited license to practice medicine to a person of professorial rank whose knowledge and special training will benefit a medical school or college or their affiliated hospitals. The foreign medical school graduate can only practice in the hospitals and outpatient clinics or affiliated hospitals for the length of his service as a full-time or adjunct faculty member. The limited licenses for faculty members may be renewed annually upon the recommendation of the dean of the medical school and the continued service of the relevant person as full-time or adjunct faculty. Present law authorizes the foreign graduates serving on medical school faculties to serve only in the hospitals and clinics of the medical school as full-time faculty members. SB 1327; CH. 473.

§ 54.1-2952.1 amended. Health professions; physician assistant prescriptive authority. Adds Schedule III controlled substances to the list of those substances that a licensed physician assistant may prescribe pursuant to regulations by the Board. Physician assistants currently may prescribe drugs from Schedules V and VI and Schedule IV, effective January 1, 2003. Nurse Practitioners already have this authority. HB 2205; CH. 510.

§ 54.1-2956.11 amended. Health professions; acupuncture. Clarifies that the Advisory Board on Acupuncture does not advise the Board of Medicine on matters relating to regulation of doctors of medicine, osteopathy, chiropractic, or podiatry who are qualified to practice acupuncture. HB 2221; CH. 512.

§ 54.1-2957.6 amended. Athletic trainer certification; protective taping. Exempts from the athletic trainer certification requirements the application of protective taping to an uninjured body part by any coach, physical education instructor or other person. Currently, these individuals may also conduct or assist with exercise or conditioning programs or classes within the scope of their duties as employees or volunteers without such certification. HB 2833; CH. 529.

§ 54.1-2961 amended. Board of Medicine's guidelines for ethical practice in the performance of surgery and other invasive procedures by interns and residents. Broadens the Board of Medicine's responsibility for developing guidelines for ethical practice of physicians practicing in emergency rooms, and surgeons, interns and residents practicing in hospitals. This provision adds the Medical Society of Virginia and the Virginia Hospital and Health Care Association to Virginia's medical schools as cooperating parties in the development of these guidelines. The enhanced guidelines address: (i) obtaining informed consent from patients or the next of kin or the legally authorized representative, when the patient is incapable of making an informed decision after the consenting party has been informed as to which physicians, residents, or interns will perform the surgery or other invasive procedure; (ii) the presence of an attending physician during the surgery except in an emergency or other unavoidable situation; (iii) policies to avoid situations in which one person represents that he will perform a surgery or other invasive procedure and then fails to do so; and (iv) policies addressing informed consent and the ethics of appropriate care of patients in the emergency room. Such policies must take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative. HB 1706; CH. 482.

§ 54.1-2989.1. See § 6.1-332.1; HB 2648.

§ 54.1-3007 amended; §§ 54.1-3030 through 54.1-3040 added. Health professions; multistate nursing compact. Authorizes Virginia's membership in a multistate nursing compact that provides the structure for the reciprocal recognition of other states' licenses to practice as a registered nurse or a licensed practical nurse. The compact also provides for each state's autonomy in setting licensure standards for the persons licensed in their home state as well as in disciplinary proceedings. The bill would provide for a data collection system and increased interaction between party states to help in health care management as well as to provide an effective screening tool for persons who are changing residence and wish to practice nursing in a state that is a party to the compact. The bill has a delayed effective date of January 1, 2005. HB 1871; CH. 249 (effective 1/1/05).

§§ 54.1-3301, 54.1-3307.3, and 54.1-3408. See

§ 32.1-42.1; HB 2183.

§§ 54.1-3303, 54.1-3401, 54.1-3408.01, 54.1-3408.03, and 54.1-3457. See § 32.1-79; HB 1823.

§ 54.1-3401 amended; §§ 54.1-3410.2 and 54.1-3435.02 added; § 54.1-3402 repealed. Pharmacists' compounding of drug products. Revises the requirements for compounding of drugs by pharmacists. This bill provides, among other matters, clear parameters for permitted pharmacies in Virginia to engage in the compounding of drug products. The bill includes (i) definitions of "bulk drug substance," and "compounding," and modifications to other Drug Control Act definitions; (ii) clarification that pharmacists may compound pursuant to valid prescriptions or in anticipation of valid prescriptions according to historical prescribing patterns; (iii) labeling requirements for compounded drugs, both those drugs dispensed pursuant to single prescriptions and those drugs compounded in anticipation of receiving valid prescriptions; (iv) restrictions on distribution that clarify that pharmacists cannot distribute to other pharmacies or commercial entities but may deliver compounded products to alternative delivery locations and provide compounded products to practitioners to administer to their patients in the course of their professional practice; (v) requirements for performance and supervision of the compounding process; (vi) a requirement for a policy and procedure manual when the levels of compounding are associated with higher risk for contamination or radiopharmaceuticals or dosage forms that are dose-critical or specialized preparations, such as slow-release products or transdermal patches; (vii) rules for the use of bulk drug substances in compounding; (viii) restrictions on the compounding of drugs that have been removed from the market by the FDA or found to be unsafe and on the compounding of large amounts of any drug product that are essentially copies of commercially available; and (ix) strict recordkeeping criteria. Physicians who are permitted to dispense or who engage in compounding must also comply with the requirements. Permitted pharmacies will not be required to obtain licenses as wholesale distributors if the wholesale distributions do not exceed five percent of the gross annual sales of the pharmacy or the wholesale distributions of Schedules II through V controlled substances do not exceed five percent of the total dosage units of such substances dispensed annually by the pharmacy. HB 2204; CH. 509.

§§ 54.1-3401 and 54.1-3408 amended; §§ 54.1-2729.1, 54.1-2729.2, and 54.1-2729.3 added. Dialysis Patient Care Technicians. Establishes the requirement for certification from an organization approved by the Board of Health Professions for a person to use the titles "dialysis patient care technician" or "dialysis care technician." Unregulated persons performing services relating to the technical elements of dialysis, such as equipment maintenance and preparation of dialysers for reuse by the same patient, will not be affected. The Board of Health Professions is charged with approving programs examining candidates for appropriate competency or technical proficiency to perform as dialysis patient care technicians or dialysis care technicians for state certification. Individuals who are em-

ployed as dialysis care technicians prior to the effective date of the Board's regulations and are administering medications in the ordinary course of their duties in Medicare-certified renal dialysis facilities and have satisfactorily completed a training program in accordance with the Core Curriculum for Dialysis Technician, also known as the Amgen Core Curriculum, or a comparable education and training curriculum, are grandfathered and will be in compliance with the new certification requirement. Other national training and testing programs appear to be available for the Board of Health Professions to approve, including several programs that are recognized by the National Association of Nephrology Technicians/Technologists. HB 2605; CH. 995

§ 54.1-3408 amended. Physical therapists; administration of controlled substances. Authorizes a physical therapist to possess and administer topical controlled substances pursuant to an oral or written order or standing protocol issued by a prescriber. HB 1934; CH. 497.

§ 54.1-3408. See § 32.1-50.2; HB 2302.

§ 54.1-3408 amended. Dental hygienists' possession and administration of certain topical drugs. Provides that, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry. "General supervision" is defined as requiring the dentist to evaluate and prescribe the services but not to require the dentist to be present when the services are delivered. Currently, dentists may "cause" Schedule VI topical drugs to be administered under their "direction and supervision" by a dental hygienist or other authorized agent, i.e., when the dentist is present. SB 1090; CH. 465.

§ 54.1-3408. See § 32.1-111.4; SB 1224.

§ 54.1-3410 amended. Health professions; pharmacy. Provides that when a drug is dispensed in a hospital by a chart order, the pharmacist dispensing the drug does not have to indicate on the label the name of the prescriber by whom the prescription was written. HB 2206; CH. 511.

§§ 54.1-3450, 54.1-3452, and 54.1-3454 amended. Health professions; pharmacy and the schedule of drugs. Adds dichloralphenazone to Schedule IV and reschedules buprenorphine from Schedule V to Schedule III to conform to recent changes in federal regulation, and to correct and conform the categories of drugs in Schedule III to those in federal regulation by moving nalorphine from the "depressants," which is an incorrect category for this drug, and placing it into its own category. HB 1825; CH. 640.

§ 54.1-3482 amended. Physical therapist assistants; supervision. Authorizes a physical therapist assistant to perform his duties solely under the direction and control of a licensed physical therapist. Current law requires that a physical therapist

assistant perform his duties under the direction and control of both a licensed physical therapist and the patient's physician. HB 1933; CH. 496.

§§ 54.1-4009, 54.1-4010, and 54.1-4012 amended; § 15.2-1232.1 added. Regulation of pawnshops, etc.; records of secondhand goods; penalty. Grants the authority to counties to regulate, among other things, the sale of property at auction; and the conduct of and prescribe the number of pawnshops and dealers in secondhand goods, wares and merchandise. Currently this authority is given only to cities. The bill also requires pawnbrokers to keep records of items purchased by them. HB 2808; CH. 448.

§§ 2.2-3711, 54.1-4400, 54.1-4402, 54.1-4409, 54.1-4413, and 54.1-4417 amended; § 54.1-4423 added. Board of Accountancy; powers. Amends several Code provisions relating to the Board of Accountancy. The bill provides for the Board to establish regulations requiring continuing professional education in ethics and to maintain a list of consultants to assist in investigations and to provide expert testimony in disciplinary proceedings. The bill (i) increases the maximum penalty that may be imposed for a regulatory violation from \$2,500 to \$100,000, (ii) requires a certified public accountant practicing in the Commonwealth under substantial equivalency to have an unrestricted license in the state of licensure, and (iii) changes the reporting year for continuing profession education from July 1 through June 30 to January 1 through December 31 for certain transition rules. A second enactment clause authorizing the promulgation of emergency regulations is also included. SB 1329; CH. 291 (effective-see bill).

TITLE 54.1. MISCELLANEOUS - PROFESSIONS AND OCCUPATIONS.

Health professions; pharmacy technicians. Extends from six months to one year after the promulgation of regulations the date pharmacy technicians must register with the Board of Pharmacy. Regulations are scheduled to be adopted by July 1, 2003. HB 1824; CH. 490.

Schools of optometry; enrollment funding. Provides by an uncodified act that, at such time as the General Assembly may provide funding to support enrollments of Virginia students in accredited schools of optometry, such funding shall be allocated first to support enrollments of such students at accredited schools of optometry in the Commonwealth. HB 1899; CH. 494.

TITLE 55. PROPERTY AND CONVEYANCES.

§ 55-50.1 added. Easements; definition of enjoyment. Provides that unless the terms of the easement specifically provide

otherwise, the owner of a dominant estate shall not use an easement in any way that is not reasonably consistent with the uses contemplated by the grant of the easement and the owner of the servient estate shall not engage in any activity or cause to be present any objects upon the burdened land that interfere with the enjoyment of the easement by the owner of the dominant estate. A violation of this section may be deemed a private nuisance. SB 1274; CH. 774.

§ 55-58.3 amended. Mortgages; priority. Provides that a subordinate mortgage that secures a promissory note payable to a locality or any agency, authority or political subdivision of the Commonwealth, which mortgage is financed pursuant to an affordable dwelling unit ordinance or a program for low- and moderate-income persons or households and contains a statement that it shall not be subordinated upon the refinancing of a prior mortgage without the secured party's consent, is not subject to the general provision that the refinancing of a prior mortgage on a single-family home does not change the priority of a subordinate mortgage. SB 997; CH. 381.

§ 55-66.3 amended. Assignment of penalty for failure to properly release a deed of trust. Provides that neither a settlement agent nor an attorney may take an assignment of the \$500 statutory penalty provided to the lien obligor for the failure of the lien creditor to properly file a release of a deed of trust or other lien against property. HB 2653; CH. 745.

§ 55-66.6 amended. Recording certificate of satisfaction. Provides that a civil penalty for not recording a certificate of satisfaction may be incurred if recordation is not accomplished within 30 days, rather than the current time period of 10 days, of receipt by the circuit court clerk. This extended period will sunset on July 1, 2004. Current staffing shortages and budget cuts have made the 10-day recordation requirement impracticable for many clerks' offices. HB 1836; CH. 245.

§ 55-70.1. See § 8.1-101; HB 1778.

§§ 55-79.41, 55-79.75, 55-79.77, and 55-510 amended. Condominium unit owners' associations; electronic voting and transmission of notices. Authorizes notices of meetings of a condominium's unit owners' association to be sent by electronic transmission if consented to by the unit owner and permitted by the condominium instruments or rules. Votes and proxies also may be submitted by electronic transmission if authorized by the unit owner or the unit owner's proxy. An electronic transmission includes any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Other changes (i) allow agents for officers of the association to send out meeting notices and (ii) eliminate the requirement that signatures of unit owners on proxies be witnessed. HB 2634; CH. 442.

§§ 55-79.75 and 55-510.1 amended. Virginia Condominium and Property Owners' Association Acts; meetings. Provides that a unit owner or lot owner may record any portion

of a meeting of the executive organ or board of directors. HB 1694; CH. 404.

§§ 55-79.75 and 55-79.75:1 amended. Condominium Act; meetings of subcommittees of executive organ; distribution of informational material by unit owners. Provides that meetings of any subcommittee or other committee of the executive organ or the unit owners' association shall be open to members of the unit owners' association. The bill also provides that except as otherwise provided in the condominium instruments, no executive organ shall require prior approval of the dissemination or content of any material regarding any matter concerning the unit owners' association. HB 1722; CH. 405.

§ 55-79.76 amended. Condominium Act; quorum requirements. Reduces the minimum requirements that condominium bylaws may specify for a quorum from 25 percent to 10 percent. HB 1942; CH. 413.

§ 55-79.81 amended. Condominium Act; responsibility for insurance deductibles. Provides that except to the extent otherwise provided in the condominium instruments, any insurance deductible under the master casualty policy shall be paid by the unit owners' association as a common expense if the cause of the damage to or destruction of any portion of the condominium originated in or through the common elements. However, a unit owner shall pay such deductible if the cause of any damage to or destruction of any portion of the condominium originated in or through a unit or any component thereof without regard to whether the unit owner was negligent. HB 2213; CH. 360.

§ 55-79.83 amended. Condominium Act; authority to levy additional assessments. Authorizes the executive organ to levy additional assessments if the executive organ determines that the assessments levied by the unit owners' association are insufficient to cover the common expenses of the unit owners' association. The bill provides for written notice of the imposition of an additional assessment and provides that the unit owners' association may rescind or reduce the additional assessment. The bill is generally analogous to provisions in the Property Owners' Association Act that authorize the board of directors to levy special assessments and the association to rescind or reduce the special assessment. HB 2216; CH. 421.

§ 55-96 amended. Date and time stamp required to be affixed to recorded documents. Requires the clerk to install a time stamp machine that shall affix the current date and time to every instrument -- except certificates of satisfaction or partial satisfaction or assignments of deeds of trust that are not hand-delivered -- delivered to the clerk's office for recording that is not immediately recorded and is not immediately entered into the general or daily index. The bill also defines the term "from the time it is duly admitted to record" to be the date and time affixed by the time stamp machine unless the clerk determines that the applicable requirements for recordation of the instrument have not been satisfied. SB 1354; CH. 776.

§ 55-201.1. See § 25.1-100; SB 1007.

§§ 55-210.4:1 and 55-210.12 amended; § 55-210.4:2 added. Unclaimed property; demutualization proceeds. Provides that unclaimed property that became payable or distributable in the course of the demutualization of an insurance company is presumed to be abandoned five years after the earlier of (i) the date of last contact with the policyholder or (ii) the date the property became payable or distributable. The annual report due November 1, 2003, shall include such information for the five years preceding 2003. HB 2462; CH. 765/SB 1133; CH. 750.

§§ 55-226.2, 55-248.4, 55-248.16, 56-1.2, and 56-245.3 amended. Ratio utility billing systems for commercial and residential rental units. Defines the term “ratio utility billing systems” and provides that ratio utility billing systems are permitted in commercial and residential buildings in addition to submetering or energy allocation, provided the landlord and tenant so state in a rental agreement or lease. The bill also eliminates the two dollar cap on the monthly administrative charges and replaces it with the actual cost being charged by the third-party provider of billing and administrative services. HB 1945; CH. 355.

§ 55-246.1. See § 16.1-88.03; HB 2624/SB 732.

§ 55-248.4 amended. Virginia Residential Landlord and Tenant Act; definition of prepaid rent. Clarifies that prepaid rent means rent paid more than one month in advance of the rent due date. HB 2340; CH. 425.

§ 55-248.4 amended. Virginia Residential Landlord and Tenant Act; definition of rental application. Adds a definition of “rental application,” which means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit. The bill also authorizes a landlord to charge an application fee and to request a prospective tenant to provide information that will enable the landlord to make such determination. The landlord may photocopy each applicant’s driver’s license or other similar photo identification, containing either the applicant’s social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. The landlord may require that each applicant provide a social security number issued by the Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord’s dwelling unit. HB 2498; CH. 855.

§ 55-248.6:1 amended. Virginia Residential Landlord and Tenant Act; application fees. Raises the amount of the application fee that a landlord may charge from \$20 to \$32. HB 1951; CH. 416.

§ 55-248.7 amended. Virginia Residential Landlord and Tenant Act; terms of rental agreements. Authorizes the inclusion in a rental agreement of a provision for the automatic renewal of the rental agreement and requirements for notice of intent to vacate or terminate the rental agreement. HB 2335; CH. 424.

§ 55-248.9 amended. Virginia Residential Landlord and Tenant Act; bonds in lieu of security deposits. Allows a landlord to accept both a bond and security deposit from a tenant as long as the total of the security deposit and the bond or insurance premium does not exceed the amount of two months’ periodic rent. HB 2344; CH. 905.

§ 55-248.9:1 amended. Virginia Residential Landlord and Tenant Act; confidentiality of tenant records. Prohibits a landlord or managing agent from releasing information about a tenant or prospective tenant except where: (i) the tenant or prospective tenant has given prior written consent; (ii) the information is a matter of public record as defined in § 2.2-3701; (iii) the information is a summary of the tenant’s rent payment record, including the amount of the tenant’s periodic rent payment; (iv) the information is a copy of a material non-compliance notice that has not been remedied or termination notice given to the tenant under § 55-248.31 and the tenant did not remain in the premises thereafter; (v) the information is requested by a local, state, or federal law-enforcement or public safety official in the performance of his duties; or (vi) the information is otherwise provided in the case of an emergency. HB 2341; CH. 426.

§ 55-248.13:2 amended. Virginia Residential Landlord and Tenant Act; access to cable and other television facilities. Authorizes a landlord to enter into a service agreement with a television service provider to provide marketing and other service to the television service provider and to receive compensation for the services. Compensation under such service agreement may also include the reasonable value of the landlord’s property that is used by the television service provider. HB 1939; CH. 64/ SB 882; CH. 68/ SB 1188; CH. 60

§ 55-248.15:1 amended; § 55-248.15:2 added. Virginia Residential Landlord and Tenant Act; security deposits and interest thereon. Clarifies that the amount of the security deposit plus interest owed by a landlord to a tenant shall be offset by any amount due the landlord from the tenant. The bill also sets out a schedule of the interest rates since July 1975 to make it easier for landlords to calculate interest owed on security deposits. HB 2497; CH. 438.

§§ 55-248.21 and 55-248.31 amended. Virginia Residential Landlord and Tenant Act; award of attorneys’ fees. Provides that a landlord shall be entitled to recover reasonable attorneys’ fees unless the tenant proves by a preponderance of the evidence that the failure of the tenant to pay rent or vacate the premises was reasonable. Currently, a landlord can recover attorneys’ fees if the tenant’s noncompliance was willful. The bill also allows a tenant to recover reasonable attorneys’ fees unless the landlord can prove his actions were reasonable. HB 2392; CH. 363.

§ 8.01-471 amended; § 55-248.34:1 added; § 55-248.34 repealed. Virginia Residential Landlord and Tenant Act; acceptance of rent with reservation. Clarifies the responsibilities of a landlord to the tenant regarding the landlord’s acceptance of rent with reservation. The bill provides that the landlord does not waive his right to terminate a tenancy when

he accepts rent with reservation as to material noncompliance by the tenant that occurs during the pendency of any legal action by the landlord. HB 2342; CH. 427.

§§ 55-286.1 and 55-286.2. See § 64.1-57; HB 1976.

§ 55-428 amended. **Virginia Real Estate Cooperative Act; taxation.** Provides that amendments enacted by the 2002 Session of the General Assembly are declaratory of existing law. The 2002 amendments to the Virginia Real Estate Cooperative Act provide (i) that owners of cooperative interests in a cooperative shall not be deemed to be a business for any state and local purposes and (ii) that any tangible personal property owned by a residential cooperative association that would be considered household goods and personal effects if owned and used by an individual or by a family or household incident to maintaining an abode shall be considered household goods and personal effects owned and used by an individual or by a family or household incident to maintaining an abode for purposes of § 58.1-3504 and any local ordinance authorized thereby. HB 1746; CH. 351.

§§ 55-508, 55-509, and 55-511 amended. **Property Owners' Association Act; applicability.** Removes the \$150 threshold for determining whether an association is subject to the Property Owners' Association Act. The bill defines when an association packet is not available. HB 2217; CH. 422.

§ 55-515.1 amended. **Virginia Property Owners' Association Act; amendment to declaration.** Allows the declaration of a property owners' association recorded prior to July 1, 1999, to be amended by agreement of two-thirds vote of the lot owners if the declaration is silent on how it may be amended. HB 2034; CH. 74/SB 1122; CH. 59.

TITLE 55. MISCELLANEOUS - PROPERTY AND CONVEYANCES.

Property conveyance; National Guard Armory. Conveys the organizational maintenance shop (OMS) and the land within the fenced-in area around the OMS located at the former National Guard Armory building in the Town of Richlands, to the Town of Richlands. This portion was excluded from the original conveyance to the Town of Richlands of the existing National Guard Armory in 1998. SB 1180; CH. 388.

TITLE 56. PUBLIC SERVICE COMPANIES.

§§ 56-245.3. See § 55-226.2; HB 1945.

§§ 56-49 and 56-347. See § 25.1-100; SB 1007.

§ 56-232 amended. **State Corporation Commission regulation of sewer utilities.** Limits the State Corporation

Commission's jurisdiction to regulate the rates, terms and conditions of sewage treatment services that are provided by certain public utilities under the terms of a franchise agreement between such a public utility and a municipality established under the laws of this Commonwealth. SB 1307; CH. 172.

§§ 56-235.5, 56-265.4:4, 56-484.7:1, 56-484.7:2, and 56-484.7:4 amended. **Public utilities; communications services.** Gives the State Corporation Commission the authority to enforce the provisions of law that permit a locality to offer communications services, including local telephone service, to customers. Localities that have obtained a certificate to offer local telephone service are required to file an annual report demonstrating that they have complied with the requirements of law regarding certain accounting practices. Localities offering qualifying communications services, including high-speed data and Internet services, are required to provide nondiscriminatory access to for-profit providers of communications services on a first-come, first-served basis, are prohibited from cross-subsidizing such services, and are prohibited from acquiring facilities for such services by eminent domain. The Commission may deem telephone services competitive on the basis of a category of customers, and the Commission may also determine bundles of competitive and noncompetitive services if the noncompetitive services are available separately. HB 2397; CH. 711.

§§ 15.2-2160, 56-265.4:4, and 58.1-2660 amended. **Telecommunications services; arbitration.** Authorizes the State Corporation Commission to discharge the responsibilities of state commissions under the federal Telecommunications Act of 1996, including the arbitration of interconnection agreements between local exchange carriers. The Commission may defer selected issues. If additional costs incurred by the Commission cannot be recovered through the maximum levy currently authorized for telephone companies, the maximum levy will be increased to the extent necessary to recover the additional costs. HB 2721; CH. 720.

§§ 56-265.4:4 and 56-484.7:1 amended; §§ 15.2-2108.2 through 15.2-2108.17 added. **Telecommunications services; certificate.** Creates a statutory procedure for cities and towns that operate a municipal electric utility and obtain a certificate to operate as a telephone utility to offer cable television services. Before offering cable television services, a locality is required to (i) hold a preliminary public hearing, (ii) hire a consultant to perform a feasibility study, (iii) hold public hearings on the feasibility study, (iv) determine whether such study finds that certain revenue requirements can be met, and (v) hold a referendum. The municipality shall establish a separate department for operation of cable television services, and establish an enterprise fund to account for the provision of such services, and cross-subsidization is prohibited. The requirements of clauses (i) through (v) will not apply to a locality that had obtained a certificate to operate as a telephone utility and installed a cable television headend prior to December 31, 2002. SB 875; CH. 677.

§ 56-265.13:6 amended. **Small Water or Sewer Public Utility Act rate increases.** Requires a small water or sewer utility that implements a rate increase of 50 percent or more to file its financial data with the Commission. If a hearing is ordered, the Commission shall expedite the hearing on the increase, and the funds produced by the increase shall be held in escrow by the utility until the Commission has rendered its decision. SB 1094; CH. 385.

§ 56-414 amended. **Locomotives.** Establishes a procedure whereby locomotives may be required to sound bells and whistles or horns at private railroad grade crossings. SB 1199; CH. 287.

§§ 56-484.12, 56-484.13, and 56-484.15. See § 2.2-106; HB 1926/SB 1247.

§ 56-484.12. See § 58.1-3812; SB 858.

§§ 56-484.12 and 56-484.17 amended. **Wireless enhanced 9-1-1 surcharge.** Specifies how CMRS providers can collect the wireless E-911 surcharge. Under the current statute, the surcharge is defined as a monthly charge billed monthly. Because prepaid wireless is not billed monthly, the bill provides that the surcharge may be collected either through monthly billing, adding the surcharge at the point of sale, or deducting an equivalent number of minutes. SB 942; CH. 341.

§ 56-560 amended. **Public-Private Transportation Act of 1995 (PPTA).** Provides that, when a responsible public entity solicits proposals for the construction of a transportation facility under PPTA, the responsible public entity will not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to the solicitation for proposals. SB 1229; CH. 289.

§§ 2.2-3705, 56-573.1, and 56-575.16 amended. **Release of procurement records under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002.** Provides that once a comprehensive agreement has been entered into under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002, a responsible public entity shall make available, upon request, procurement records in accordance with § 2.2-4342. The bill provides that procurement records shall not be interpreted to include proprietary, commercial or financial information, balance sheets, financial statements, or trade secrets that may be provided by the private entity as evidence of its qualifications. The bill also contains a technical amendment. HB 1545; CH. 968.

§§ 56-575.1 through 56-575.4, 56-575.8, 56-575.9, 56-575.11, and 56-575.16 amended. **Technology infrastructure projects added to Public-Private Education Facilities and Infrastructure Act of 2002.** Amends the Public-Private Education Facilities and Infrastructure Act of 2002 to include technology infrastructure as a qualifying project. The original version of this bill was a recommendation of the Joint Commission on Technology and Science. HB 1925; CH. 1034

§§ 56-575.3 and 56-575.16 amended. **Public-Private Education Facilities and Infrastructure Act of 2002; definitions; unsolicited proposals.** Clarifies that a responsible public entity may reject any unsolicited proposal and that, if a proposal is rejected, any fees related to the proposal must be returned to the private entity. In addition, the bill requires a responsible public entity to advertise a private entity's request for approval of a qualifying project in the Virginia Business Opportunities publication and, in the case of a state agency, to also post a notice on the Commonwealth's electronic procurement website. The bill also (i) provides for a responsible public entity to post and publish a private entity's request for approval of a qualifying project for a period of time appropriate to encourage competition, and (ii) clarifies that a qualifying project must consist of a specific project and may not include multi-year arrangements related to unspecified projects. SB 1330; CH. 292.

§§ 56-577 and 56-579 amended. **Electric utility restructuring; regional transmission entities.** Delays the date by which incumbent electric utilities with transmission capacity must join a regional transmission entity (RTE). The Electric Utility Restructuring Act originally required utilities to join an RTE by January 1, 2001. This measure provides that utilities shall not join an RTE prior to July 1, 2004. Utilities are required to file an application to join an RTE by July 1, 2003, and to transfer management and control of transmission assets to the RTE by January 1, 2005, subject to State Corporation Commission approval. Prior to approving a request to join an RTE, the Commission must determine that the action will (i) ensure that consumers' needs for economic and reliable transmission are met and (ii) meet the transmission needs of electric generation suppliers that do not own, operate, control or have an entitlement to transmission capacity. In addition, requests for approval shall include a study of comparative costs and benefits, including an analysis of the economic effects of the transfer on consumers and the effects of transmission congestion costs. The bill contains an emergency clause. HB 2453; CH. 990 (effective 4/2/03).

§§ 56-577 and 56-589 amended. **Electric utility restructuring; pilot programs for aggregation.** Authorizes the State Corporation Commission (SCC) to conduct pilot programs. The Commission may establish opt-in and opt-out municipal aggregation pilots and any other pilot program deemed to be in the public interest. The SCC is to report to the Legislative Transition Task Force on the status of the pilots each November through 2006. HB 2319; CH. 795.

§§ 56-579, 56-581.1, 56-585, 56-592, 56-592.1, 56-595, and 56-596. See § 30-156; SB 1315.

§ 56-580 amended. **Electric utility restructuring; suspension.** Suspends the application of the Virginia Electric Utility Restructuring Act to any investor-owned incumbent electric utility supplying electric service to retail customers on January 1, 2003, whose service territory is located entirely within five enumerated counties in Southwest Virginia. The suspension will continue so long as the utility does not provide retail electric services in any other service territory in any jurisdiction to

customers who have the right to receive retail electric service from another supplier. HB 2637; CH. 719.

§ 56-595 amended. Electric Restructuring; Legislative Transition Task Force. Extends the sunset for the Legislative Transition Task Force from July 1, 2005, to July 1, 2008. HB 2318; CH. 904.

TITLE 57. RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.

§ 57-12 repealed. Religious and charitable matters; quantity of real property a church may hold. Repeals the limitation on the amount of real property that a church may hold. Under current law, churches are limited to holding up to 15 acres in a city or town and up to 250 acres in a county. Current law also provides for a city or town council to enact an ordinance authorizing up to 50 acres to be held if the property is devoted exclusively to certain specified uses. HB 2603; CH. 813.

§§ 57-48, 57-49, 57-57, and 57-59 amended. Solicitation of contributions; terrorist organization. Requires that every registration statement to solicit contributions have the following statement: "No funds solicited by this charitable organization have been or will knowingly be used, directly or indirectly, to benefit or provide support, in cash or in kind, to terrorists, terrorist organizations, terrorist activities, or the family members of any terrorist." The bill prohibits the licensing or permitting of any such organization that has provided such support, and subjects any person who knowingly uses or permits the use of such funds to benefit or provide support for terrorists, terrorist organizations, terrorist activities or family members of any terrorist, to the fines and jail time currently established. Finally, the bill subjects the assets of any person who commits or attempts to commit an act of terrorism to forfeiture in accordance with § 18.2-46.9. HB 1858; CH. 977/SB 954; CH. 1009.

§§ 57-48, 57-49, 57-55.3, 57-59, and 57-60 amended; § 57-61.2 added. Solicitation of contributions; commercial co-venturers. Defines a commercial co-venturer as any person who (i) is organized for profit, (ii) is regularly and primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a specified limited period of time. The bill makes commercial co-venturers subject to the solicitation of contributions law, although it does not require registration of these entities. The bill sets out recordkeeping and other requirements for commercial co-ventures involved in the conduct of any charitable sales promotion. The bill also defines charitable sales promotion as advertised sales that feature the names of both the commercial co-venturer and the charitable or civic organization and which state that the purchase or use of the goods, services, entertainment, or any other thing of value that

the commercial co-venturer normally sells, will benefit the charitable or civic organization or its purposes. The bill provides that to qualify as a charitable sales promotion, the consumer must pay the same price for the thing of value as the commercial co-venturer usually charges without the charitable sales promotion and the consumer retains the thing of value. SB 1156; CH. 576.

§ 57-58 amended. Solicitation of Contributions; federated fund-raising organizations. Requires federated fund-raising organizations to clearly disclose on any registration filed with the Office of Consumer Affairs the percentage that is withheld from a donation designated for a member agency. SB 1340; CH. 810.

TITLE 58.1. TAXATION.

§§ 15.2-1104.1, 30-19.1:3, 58.1-3, 58.1-609.10, 58.1-610, 58.1-623, 58.1-623.1, 58.1-3510.1, 58.1-3510.3, and 58.1-3818 amended; § 58.1-609.11 added; §§ 30-19.05, 58.1-608.2, 58.1-609.4, 58.1-609.7, 58.1-609.8, and 58.1-609.9 repealed. Sales and use tax; exemptions for non-profit entities. Alters the procedures for granting sales and use tax exemptions to nonprofit entities in conformity with recommendations of the Joint Subcommittee to Study and Revise Virginia's State Tax Code (HJR 685/SJR 387, 2001; HJR 60, 2002) by giving the Department of Taxation the administrative duty to grant such exemptions according to certain broad criteria established by the bill. The bill has a delayed effective date of July 1, 2004. HB 2525; CH. 757 (effective-see bill)/SB 743; CH. 758 (effective-see bill).

§§ 58.1-3 and 58.1-4019.1. See § 18.2-340.15; SB 1278.

§ 58.1-202.1 amended. Withholding tax filing; electronic funds transfer. Requires any firm that files withholding taxes on behalf of 100 or more taxpayers to remit such withholding payments via electronic funds transfer using automatic clearinghouse credit transactions. HB 2351; CH. 36/SB 833; CH. 39.

§ 58.1-301 amended. Income tax; conformity of terms to the Internal Revenue Code. Selectively deconforms Virginia's tax code to the Internal Revenue Code (IRC) by advancing the fixed-date conformity by one year. Virginia will conform to all provisions of the IRC except the special 30-percent bonus depreciation and the five-year net operating loss carry-back for certain losses. HB 2455; CH. 2 (effective 2/17/03)/SB 1049; CH. 163 (effective 3/16/03).

§ 58.1-322 amended. Individual income tax; subtraction for military death gratuity payments. Allows a subtraction for the amount of military death gratuity payments made to survivors of military personnel who are killed in the line of duty when calculating Virginia taxable income. The subtraction only applies to payments received after September 11, 2001. Such subtraction amount must be reduced by the amount that is

allowed as an exclusion from federal gross income to the survivor on his federal income tax return.

Under current law, Virginia exempts \$3,000 and the federal military death gratuity payment is \$6,000. With this change, the additional \$3,000 will be exempt. HB 1624; CH. 181.

§ 58.1-322 amended. Income tax; foreign source income. Eliminates the subtraction for foreign source income for individuals when calculating their taxable income. Elimination of the subtraction is effective for taxable years beginning on or after January 1, 2003, except that any amount received in 2003 attributable to foreign source dividends which should have been paid in a prior taxable year pursuant to a final court order may be subtracted for the 2003 taxable year. HB 1914; CH. 980.

§§ 58.1-322 and 58.1-402 amended. Individual income tax; subtraction for the Peanut Quota Buyout Program. Allows individuals and corporations who receive payments in accordance with the Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 to subtract such payments when calculating their Virginia taxable income. The bill is retroactive to January 1, 2002, and has an emergency clause. HB 2400; CH. 209 (effective 3/16/03).

§§ 58.1-322 and 58.1-402 amended. Income tax; subtraction for payments received by contract poultry growers and table egg producers. Allows a subtraction to contract poultry growers and table egg producers for indemnification payments received from the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low pathogenic avian influenza in 2002. The deduction is allowed for taxable years beginning on and after January 1, 2002, but before January 1, 2005. HB 2554 and SB 1026 contain an emergency clause. HB 2554; CH. 3 (effective 2/17/03)/SB 1026; CH. 58 (effective 3/16/03).

§ 58.1-322 amended. Virginia Individual Income Tax. Deletes obsolete language. HB 2828; CH. 807.

§ 58.1-346.8 amended. Individual income tax; refund checkoff for Historic Resources Fund. Extends the sunset date from January 1, 2004, to January 1, 2009, for the refund checkoff for the Historic Resources Fund. HB 1913; CH. 10.

§§ 58.1-346.21, 58.1-346.22, and 58.1-346.23 added. Income tax; voluntary contribution of tax refund to Virginia Federation of Humane Societies, and others. Creates three additional income tax checkoffs beginning January 1, 2004, and ending January 1, 2009, for individuals to contribute all or part of their income tax refunds to the Virginia Federation of Humane Societies, the Tuition Assistance Grant Fund, and the Spay and Neuter Fund. HB 1635; CH. 636.

§ 58.1-346.21 added. Income tax; voluntary contribution of tax refund to the Virginia Commission for the Arts. Creates an additional income tax checkoff beginning January 1, 2004, and ending January 1, 2009, for individuals to contribute all or part of their income tax refunds to the Virginia Commission for the Arts. SB 1096; CH. 878.

§§ 58.1-348 and 58.1-452 amended. Fraudulent tax return; penalty. Changes the penalty from a Class 1 misdemeanor to a Class 6 felony for an individual who, with the intent to defraud the Commonwealth, makes a false statement on an income tax return and for an officer of a corporation who makes a fraudulent return or statement with intent to evade the payment of taxes. HB 1576; CH. 180.

§ 58.1-441 amended. Change in filing date; nonprofit corporations. Changes the income tax report filing date for nonprofit corporations with unrelated business taxable income from the fifteenth day of the fourth month following the close of the taxable year to the fifteenth day of the sixth month following the close of the taxable year. Applies to taxable years beginning on or after January 1, 2003. SB 935; CH. 376.

§ 58.1-442 amended. Income tax returns of affiliated corporations. Provides that a group of affiliated corporations may change from filing (i) a consolidated return to separate returns or (ii) separate or combined returns to a consolidated return, provided that the affiliated group has filed on the same basis for at least the preceding 20 years. Permission shall be granted if (a) for the taxable year immediately preceding the taxable year of such change, there would have been no decrease in tax liability computed under the proposed change and (b) the affiliated group or corporations agrees to file returns computing its income tax liability under both the new filing method and the former method and to pay the greater of the two amounts for the taxable year in which such change is effective and for the immediately succeeding taxable year. SB 1125; CH. 166.

§§ 58.1-609.1 and 58.1-3506. See § 2.2-203; HB 1774/SB 1092.

§§ 58.1-609.3 and 58.1-3660 amended. Property tax; certified pollution control equipment and facilities. Adds any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, or fuel to the definition of certified pollution control equipment and facilities for property tax classification purposes. Such equipment shall not be exempt from sales and use taxes unless the equipment has been certified by the proper state authority as pollution control equipment. HB 2726; CH. 859.

§§ 58.1-609.4, 58.1-609.6, 58.1-609.7, and 58.1-609.9 amended. Sales and use tax exemptions; omnibus extension bill. Extends the sunset date for numerous sales and use tax exemptions. HB 1754; CH. 911/SB 742; CH. 916.

§ 58.1-611.1 amended. Sales and Use Tax; Food Tax Reduction Program. Eliminates a fund that was never used and provisions that were enacted because the Northern Virginia and Hampton Roads sales tax for transportation referendums are now unnecessary. HB 2827; CH. 806.

§ 58.1-615. See Budget Bill; HB 1400.

§§ 58.1-641 and 58.1-642. See § 10.1-1418.2; SB 965.

§§ 33.1-221.1:3 and 58.1-815.1 amended. Northern Virginia Transportation District Program. Designates one additional

project to be financed by bonds authorized to be issued for certain projects in the Northern Virginia Transportation District Program and reduces the funding for another project by an equal amount. HB 2799; CH. 337.

§ 58.1-1015 amended; §§ 18.2-246.6 through 18.2-246.15 added. Sales of cigarettes; penalties. Revises and graduates penalties for the illegal use of Virginia cigarette revenue stamps. The bill allows seizure and forfeiture of counterfeit cigarettes, stamps and related equipment and property and authorizes enforcement of the provisions by the Attorney General. The bill also imposes requirements for delivery sales to consumers. The requirements relate to minimum age verification, disclosure, shipping, registration and reporting and tax collection. The Attorney General is authorized to enforce the delivery sale requirements, and the penalties are fines, forfeitures and, if the violation is made knowingly, civil penalties of up to \$50,000. SB 956; CH. 1010.

§§ 58.1-1712 and 58.1-1714. See § 8.01-606; HB 1921.

§ 58.1-1825 amended. Tax administration; application to court for correction of state tax assessment. Eliminates the current requirement that a taxpayer must pay the assessment in order to appeal to the circuit court. The Tax Commissioner would be authorized to petition the court to require the taxpayer to pay upon a showing that the Department is likely to prevail on the merits of the case. If the court grants such motion by the Tax Commissioner, the taxpayer must pay the assessment, post a bond, or offer a letter of credit. HB 2538; CH. 908.

§ 58.1-1840.1 added. Virginia Tax Amnesty Program. Authorizes the State Tax Commissioner to operate a tax amnesty program during the 2004 fiscal year. The program would be open to any individual, corporation, estate, trust or partnership required to but that has failed to file a return or to pay any tax administered by the Department of Taxation. All civil or criminal penalties assessed or assessable and one-half of the interest assessed or assessable, resulting from nonpayment, underpayment, nonreporting or underreporting of tax liabilities will be waived upon payment of the taxes and interest. HB 2454; CH. 52/SB 1030; CH. 24.

§§ 58.1-2201, 58.1-2204, 58.1-2212, 58.1-2218, 58.1-2225, 58.1-2230, 58.1-2238, 58.1-2242, and 58.1-2259 amended; §§ 58.1-2221 and 58.1-2264 repealed. Motor fuels tax. Makes several technical changes relating to licensees and their reporting/filing requirements with the Department of Motor Vehicles. HB 1577; CH. 781.

§§ 58.1-2261 and 58.1-2262 amended. Virginia Fuels Tax Refunds. Requires the Department of Motor Vehicles to provide an explanation to the applicant if the refund amount requested differs from the amount actually paid. HB 2456; CH. 325.

§ 58.1-2403 amended. Motor vehicle sales and use tax. Provides an exemption from the motor vehicle sales and use tax for vehicles titled in the name of a deceased person and trans-

ferred to the spouse or heir, or under the will, of such deceased person. SB 809; CH. 278.

§ 58.1-2405 amended. Motor vehicle sales and use tax; casual sales. Allows, in the case of a sale of a motor vehicle, which is not a new motor vehicle, between individuals who are not required to be licensed as dealers or salespersons, the Commissioner to collect the motor vehicle sales tax on the basis of the total sales price as established by evidence required by the Commissioner. However, if the auto is no more than five years old and is listed in a recognized pricing guide, then the trade-in value listed in such guide less \$1,500 shall be used unless the purchaser executes an affidavit stating a lesser value, which shall be used for sales tax purposes. HB 2537; CH. 328.

§ 58.1-2423 amended. Refund of taxes erroneously collected or paid. Allows a refund to a claimant who pays a tax, either for the claimant or for the benefit of another on whose behalf the tax is paid, if he makes a sufficient showing that the tax was erroneously collected by providing an affidavit that (i) the vehicle identification information provided on the Application for Certificate of Title and Registration, the certificate of origin, manufacturer's statement of origin, or title was incorrect, or (ii) the transaction would have been exempt from taxation. HB 1630; CH. 837.

§§ 58.1-2500 and 58.1-2507 amended. Gross premium license tax on insurance companies. Specifies that penalties owed for failure to pay license taxes timely are due within 14 days of the date of the notice to the delinquent insurer. If such additional amounts are not paid when due, the State Corporation Commission may suspend or revoke the insurer's license. The measure also provides for refunds of overpayments of penalties, and defines the terms "preceding year's tax" and "tax." SB 854; CH. 372.

§ 58.1-2660. See § 56-265.4:4; HB 2721.

§ 58.1-3118 amended. Certain duties of the commissioner of the revenue and treasurer; extensions to complete work. Allows the Department of Taxation to extend the time of delivery of personal property books by the commissioner of revenue for good cause and upon written notice to the county or city treasurer and local governing body. HB 1767; CH. 8.

§ 58.1-3131 amended. Local warrant books; limits on release of information. Allows treasurers to limit the information released from the list of warrants only for use in establishing the status of a claim previously reported as paid when a person legally entitled to the funds provides evidence that such claim has not been paid. HB 2656; CH. 931.

§ 58.1-3221.1 amended. City of Roanoke real estate tax rates. Authorizes the City of Roanoke to impose a tax rate on improvements to real property that is equal to or less than the City's tax rate on the land upon which the improvements are located. The City of Fairfax has been given this same authority effective July 1, 2003. SB 1095; CH. 164.

§ 58.1-3233 amended. Special land use assessment. Permits localities to make land used for aquaculture or specialty crops

eligible for local-option agriculture land use assessment even if such land is less than the five acre minimum ordinarily applicable to agricultural or horticultural property. HB 2056; CH. 356.

§§ 15.2-717, 58.1-3256, 58.1-3260, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380, 58.1-3384, and 58.1-3984 amended.

Real estate appeals to Boards of Equalization and circuit court. Makes several changes to the current process for appealing real estate assessments. For purposes of appeals to a board of equalization, the bill provides that there shall be a presumption that the valuation of real estate as determined by the local assessing officer is correct, and the taxpayer must produce substantial evidence that the valuation of his real estate is erroneous and was not arrived at in accordance with generally accepted appraisal practice in order to receive relief from the board. The bill does not change current law in regard to the burden of proof and standard of proof that a taxpayer must produce in circuit court.

The bill permits taxpayers to make fair market value appeals to a board of equalization. It also limits to nine the number of years of consecutive service that a person may sit as a member of a board of equalization. Thirty percent of the members of boards of equalization shall be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals, and at least one member shall sit in all appeals involving commercial, industrial or multi-family residential property, unless waived by the taxpayer. The bill also requires each member of a board of equalization to take continuing education instruction at least once in every four years of service as a member of such board.

The bill provides a three-year statute of limitations for appealing real estate tax assessments to all circuit courts. In general, there is a three-year statute of limitations under current law; however, in some localities there is a one-year statute of limitations pursuant to specific law. In those localities with the one-year statute of limitations, the new three-year requirement will be phased in over several years. The bill has an effective date of January 1, 2004. HB 2503; CH. 1036.

§ 58.1-3274 amended. Departments of real estate; Goochland County. Authorizes Goochland County to establish a department of real estate. Under current law, departments of real estate are required to assess all real estate within the locality on an annual or biennial basis. SB 1333; CH. 474.

§ 58.1-3292.1 amended. Assessment of substantially completed buildings. Allows the City of Fairfax (described by population) to provide by ordinance that all new buildings shall be assessed when substantially completed or fit for use and occupancy, regardless of the date of completion or fitness. This authority currently applies only to Fairfax County. HB 1673; CH. 6.

§ 58.1-3292.1 amended. Local real estate assessments; buildings substantially completed or fit for use and occupancy. Authorizes Arlington County, Loudoun County, Prince William County, and the Cities of Alexandria, Falls Church, Fairfax, Manassas, and Manassas Park to assess real estate tax

on new buildings when substantially complete or fit for use and occupancy, regardless of the date of completion or fitness. Under current law, (i) any county, city, or town may assess real estate tax on new buildings that are substantially complete or fit for use and occupancy prior to November 1 of the tax year, and (ii) Fairfax County may assess real estate tax on new buildings when substantially complete or fit for use and occupancy, regardless of the date of completion or fitness. SB 1285; CH. 581.

§ 58.1-3511 amended. Personal property tax; situs for assessment of motor vehicles. Clarifies that the situs for assessment purposes of business vehicles with a weight of 10,000 pounds or less is the locality in which the business owner has a definite place of business and in which he directs or controls the use of such vehicles, provided he has sufficient evidence that he has paid the tax to such locality. HB 2323; CH. 34/SB 1033; CH. 43.

§ 58.1-3651 added; §§ 30-19.04 and 30-19.1:2 repealed. Property tax exemptions. Specifies the process localities must follow to exempt from real or personal property taxes the property of certain charitable and other related organizations. The legislation stemmed from the constitutional amendment that took effect on January 1, 2003, giving localities the authority to grant such exemptions subject to restrictions and conditions set by the General Assembly. The bill has an emergency effective date of January 1, 2003. HB 1750; CH. 1032 (effective 5/1/03)

§ 58.1-3724. See § 19.2-152.1; HB 1905.

§ 58.1-3812 amended. Local consumer utility tax. Allows the local governing bodies of the Towns of Gordonsville, Colonial Beach and Montross to impose the local consumer utility tax by adopting a local ordinance on or after July 1, 2003. When such ordinance is adopted, the county in which such town is located may no longer impose the tax within the limits of the respective town. HB 1558; CH. 179.

§§ 56-484.12 and 58.1-3812 amended. Telecommunications taxes; taxation of bundled transactions. Allows nontaxable services to continue to be nontaxable when bundled with taxable communications services if the provider can identify the nontaxable portion from its books and records. In addition, if the services are taxable at different rates, they will not be taxed at the highest rate if the provider again can identify the services subject to a lower rate from its books and records. SB 858; CH. 160.

§ 58.1-3819 amended. Transient occupancy tax. Authorizes Cumberland County, King George County, and Prince Edward County to levy a transient occupancy tax at the rate of five percent. Any revenues attributable to the portion of the tax greater than two percent shall be spent for promoting tourism, travel or business that generates tourism or travel in the county. SB 722; CH. 939.

§ 58.1-3833 amended. Food and beverage tax and meals tax; embezzlement. Provides that the wrongful and fraudulent use of collected food and beverage tax or meals tax constitutes

embezzlement under the criminal embezzlement statute. HB 2089; CH. 792.

§ 58.1-3840 amended. Local taxation; lower rate for admissions tax on certain events. Allows any city or town that imposes the admissions tax to impose the tax at a lower rate on any event held in facilities that are not owned by the city or town than that which is imposed on events held in city- or town-owned civic facilities. HB 2045; CH. 12.

§ 58.1-3940 amended. Collection of local taxes. Provides for an extension of time on the local treasurer's administrative remedies (lien, distress) where the tax due has been reduced to judgment. Currently, the time limitations do not effect a judgment lien so the local treasurer may continue to collect during the time the lien is valid. HB 2659; CH. 214.

§ 58.1-3958 amended. Local taxes; administrative fees to collect delinquent taxes or other delinquent charges. Increases the fees that may be charged by local governments for administrative costs incurred in collecting delinquent taxes or other delinquent charges. The fees are increased from \$20 to \$30 for delinquent taxes and other charges collected before judgment is taken, and from \$25 to \$35 for such taxes and charges collected subsequent to a judgment. SB 1227; CH. 170.

§ 58.1-3965 amended. Real property tax; installment agreements to pay delinquent taxes. Eliminates the requirement under current law for the recording of installment agreements between local officers and owners of real property for the payment of delinquent real estate taxes. SB 1183; CH. 168.

§ 58.1-3970.1 amended. Conveyance of real estate for delinquent taxes or certain liens. Provides that real estate for which there are delinquent taxes may be conveyed to the locality if the real estate has a value of \$20,000 or less and such taxes alone exceed 25 percent of the value of the real estate. HB 2277; CH. 16/ SB 735; CH. 156.

§ 58.1-3983.1 amended. Local business taxes; appeals. Requires the Tax Commissioner to determine within 30 days whether he has jurisdiction to hear an appeal of certain local business taxes, and restricts to 60 days the additional time (i.e., in addition to 90 days from the receipt of the appeal) within which the Tax Commissioner must make a final determination on the merits of the appeal when he does have jurisdiction; unless additional time is needed because an affected party fails to supply necessary information, in which case, the Tax Commissioner shall issue his determination within 60 days of receipt of such information. HB 1932; CH. 196.

§ 58.1-4013 amended; § 58.1-4020.1 added. Lottery; voluntary assignment of prizes or pledge as collateral. Allows winners of the lottery to assign or pledge as collateral for a loan lottery prizes that are payable in installments over time, excluding prizes payable for the winner's life. HB 1564; CH. 924.

TITLE 59.1. TRADE AND COMMERCE.

§§ 59.1-21.10, 59.1-21.12, and 59.1-21.16:2 amended. Virginia Petroleum Products Franchise Act. Clarifies that the minimum distance of one and one-half miles between a refiner-operated service station and one operated by a franchised dealer is measured from the gas pump on the refiner's facility that is nearest a gas pump at the dealer's facility. The bill also changes the threshold for defining a "newly remodeled facility" to one that has a minimum cost of \$560,000 until January 1, 2004, and thereafter a minimum cost of \$560,000 plus an amount reflecting the annual rate of inflation based on changes in the Consumer Price Index. Finally, civil liability for violating the Act is increased from liquidated damages of \$2,500 to \$10,000. HB 1889; CH. 410.

§ 59.1-148.3 amended. Purchase of service handgun. Provides that local police departments and sheriffs may allow auxiliary law-enforcement officers with more than 20 years of service to purchase their service handgun for a sum equivalent to or less than its fair market value. SB 1076; CH. 106.

§§ 8.01-40.2 and 59.1-200 amended. Unsolicited facsimile transmissions. Makes the unsolicited transmission of advertising materials by facsimile a prohibited practice under the Consumer Protection Act. The bill eliminates the requirement that the unsolicited facsimile be advertising goods or services for sale or lease. Enforcement provisions under the Consumer Protection Act (i) permit the Attorney General to issue civil investigative demands and assurances of voluntary compliance, (ii) create an individual action for damages, and (iii) permit aggrieved parties or the Attorney General to seek injunctive relief to prevent further violations. HB 2618; CH. 800.

§ 59.1-200. See § 32.1-222; HB 2810.

§ 59.1-207.5:1 added. Motor vehicle glass. Prohibits any person selling, installing or replacing motor vehicle glass from advertising, promising to provide, or offering any coupon, credit or rebate to pay all or part of an insurance deductible under a motor vehicle insurance policy unless the person charges no more than the prevailing market rate for such services. HB 2266; CH. 707.

§§ 59.1-207.19, 59.1-352.2, 59.1-353, 59.1-481, 59.1-494, and 59.1-501.2. See § 8.1-101; HB 1778.

§§ 59.1-274 and 59.1-275 amended. Enterprise zone designation period. Provides that if the designation of a state enterprise zone is scheduled to expire prior to the expiration date of a federal empowerment zone designation of the same area, the state designation expiration date shall be extended to conform to the expiration date of the federal designation. HB 1988; CH. 763/SB 903; CH. 748.

§ 59.1-280 amended. Enterprise zone business tax credit. Adds a definition for "high investment/limited job creation qualified business firms" for purposes of enterprise zone tax credits. Such a firm is a qualified business firm making quali-

fied zone investments of \$50 million or more but creating fewer than 50 permanent full-time positions. Such firms shall be allowed a business tax credit provided (i) the amounts shall not exceed those allowed to small qualified business firms, and (ii) the credit amount shall not exceed the amount recovered by the Commonwealth through revenues generated from new state income tax collections resulting from the new, permanent full-time positions within a five-year period. The bill is effective for taxable years beginning on and after January 1, 2003. SB 859; CH. 676.

§§ 59.1-296, 59.1-296.2:1, 59.1-297, 59.1-298, and 59.1-305 amended; §§ 59.1-297.1 and 59.1-297.2 added. Virginia Health Spa Act. Makes several technical and clarifying amendments to the Virginia Health Spa Act. The buyer may cancel a contract if the health spa relocates and fails to provide comparable alternate facilities within five driving miles of the original location. Refunds shall be calculated by dividing the contract price by the term of the contract in days, multiplying that number by the number of days the contract was in effect, and subtracting that amount from the total price paid on the contract. A health spa contract is considered terminated automatically if the health spa permanently closes and does not provide a comparable alternate facility. Health spas are also required to notify the buyer, either in the contract or in a separate notice, that the Office of Consumer Affairs regulates health spas. SB 1034; CH. 344.

§ 59.1-335.2 amended. Credit Services Businesses Act. Clarifies that the Virginia Credit Services Businesses Act does not apply to any person selling personal, family, or household goods to a consumer who, in connection with the seller's sale of its goods to the consumer, assists the consumer in obtaining a loan or extension of credit or extends credit to the consumer. HB 2193; CH. 359.

§ 59.1-352.3 amended. Equipment Dealers Protection Act. Clarifies that a notice and right to cure a deficiency is not required if a supplier terminates an agreement for good cause. HB 2521; CH. 797.

§§ 59.1-369, 59.1-391, and 59.1-395 amended. Virginia Racing Commission; powers; local referenda; prohibitions; criminal penalties. Authorizes the Commission to regulate and establish fees for account wagering. The bill also (i) removes the 2005 sunset on the Commission's authority to alter the required number of live-racing days and (ii) allows towns to conduct referenda on the question of whether pari-mutuel wagering should be allowed. SB 1152; CH. 682.

§ 59.1-386 amended. Virginia Racing Commission; acquisition of interest in licensee; new application required. Provides that if an applicant proposes to acquire actual control of a licensee such person shall submit such information as required by law and the Commission in its discretion. Such person may submit any other information to assure the Commission that the licensee, under the actual control of such person, the licensee will have the experience, expertise, financial responsibility, and commitment to be and remain in compliance with horse racing laws, the Commission's regula-

tions and orders, and the conditions required by the Commission for the issuance and continued operation of the owner's and operator's license or both such licenses. The bill requires the Commission to approve any such application under certain circumstances. HB 2212; CH. 705 (effective-see bill).

§ 59.1-394.1 amended. Virginia Racing Commission; Live Horseracing Compact. Amends the Live Horseracing Compact to authorize the compact committee, which consists of officials from all states that are a party to the compact, to determine which categories of certain participants in live racing with pari-mutuel wagering where authorized in two or more states should be licensed by the committee. The bill also authorizes the Virginia Racing Commission to designate a representative to serve in the event the Commission member appointed to serve on the compact committee is unable to serve. Under the rules of the current compact, another member of the commission must be designated. HB 2749; CH. 722.

§§ 59.1-407 through 59.1-411 and 59.1-414 amended. Overhead High Voltage Line Safety Act. Increases the minimum clearance distance from an overhead high voltage line within which a person is prohibited from performing work from six feet to 10 feet. The owner or operator of overhead high voltage lines is exempted from liability for damages resulting from work within 10 feet of overhead high voltage lines, unless the required notice has been given and such owner or operator does not provide required temporary safety arrangements. A person who violates the minimum clearance requirements and whose activities damage utility facilities or cause other injury or damage is required to indemnify the line's owner or operator against all claims including service interruptions and costs incurred in defending any claims. Except for the indemnification obligations imposed on persons who violate the minimum clearance requirements, this measure does not affect the exclusive remedy provisions of the Virginia Workers' Compensation Act. Other provisions clarify the required contents of a notice required when a person intends to work in closer proximity to a power line than the statutory minimum clearance distance. Exemptions are established for (i) certain covered equipment used in agricultural or silvicultural activities and (ii) owners or leaseholders of real estate devoted to agricultural or silvicultural activities beneath a high voltage line, unless otherwise required by state or federal law. HB 2539; CH. 364.

§ 59.1-437 amended. Extended Service Contract Act. Permits a third party extended service contract obligor to demonstrate proof of its financial security by showing that the obligor or its parent company has a net worth of at least \$100 million. HB 1935; CH. 411.

**TITLE 60.2. UNEMPLOYMENT
COMPENSATION.**

§ 60.2-114 amended. Unemployment compensation; records and reports. Permits the Virginia Employment Commission, when sending information for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions, to send such information to a designated agent of the Commonwealth or political subdivision. HB 2722; CH. 721.

§ 60.2-204 amended. Unemployment compensation; base period. Provides that if an individual earned insufficient wages in the first four of the last five completed calendar quarters to become eligible for benefits, then such claimant's "base period" shall be the four most recent completed calendar quarters immediately preceding the first day of the claimant's benefit year. SB 1040; CH. 383.

§ 60.2-219 amended. Unemployment compensation; exclusion for independent clinical service providers. Provides that services performed by a licensed clinical social worker, licensed psychologist, licensed professional counselor or licensed psychiatrist do not constitute "employment," for purposes of unemployment compensation, if the individual providing the services (i) operates under a contract specifying that he is free from control or direction over the performance of the services, (ii) is licensed to perform independent clinical services, (iii) is compensated solely from fees charged for the services that he performs, and (iv) has a valid business license issued by the locality where he performs the services. HB 2484; CH. 609.

§ 60.2-525 amended. Notice of unemployment benefit charges and taxes. Requires the Virginia Employment Commission (VEC) by December 31 of each year to send to every covered employer a notice of unemployment benefit charges and taxes for the preceding fiscal year. Currently, the VEC sends such notice by July 1 of each year for the preceding calendar year. SB 1039; CH. 382.

§ 60.2-602 amended. Unemployment compensation; weekly benefit amount. Changes the basis for calculating weekly unemployment benefits. Beginning July 6, 2003, an individual's benefit will be 52 percent of his previous weekly wages during the two highest quarters in his base period, not to exceed the maximum weekly benefit amount of \$316. For claims filed on or after July 4, 2004, the maximum weekly benefit amount shall be \$326. HB 1929; CH. 926.

§ 60.2-604 amended. Unemployment compensation; social security benefit. Provides that weekly unemployment compensation benefits will be reduced by an amount equal to 50 percent of the Social Security Act or Railroad Retirement Act retirement benefits received by the individual and attributable to such week. HB 1431; CH. 555/SB 1014; CH. 534.

**TITLE 62.1. WATERS OF THE STATE, PORTS
AND HARBORS.**

§ 62.1-44.3, 62.1-44.18, and 62.1-44.19. See § 32.1-164; HB 2602.

§ 62.1-44.15:5 amended. Emergency water supply permit. Authorizes the State Water Control Board to issue an emergency Virginia Water Protection Permit (VWPP). If the Board finds that there is an insufficient drinking water supply for the area served by a public water system, an emergency permit would be issued to an applicant seeking to develop an additional source of water supply. The amount of water that could be withdrawn under the permit is limited to the amount necessary to protect public health and safety. The emergency permit would be valid (i) until the Board either denied or approved a regular VWPP or (ii) for one year, whichever occurs sooner. The fee charged by the Board for the emergency permit would be 50 percent of the amount charged for a comparable water project seeking a VWPP. HB 1505; CH. 399.

§ 62.1-44.17:1 amended. Confined animal feeding operations. Authorizes the State Water Control Board to promulgate regulations requiring VPDES permits for confined animal feeding operation to the extent necessary to comply with § 402 of the federal Clean Water Act. Certain confined animal feeding operations will be covered under Virginia Pollutant Discharge Elimination System permits as opposed to General Virginia Pollutant Abatement permits. The bill also requires the State Water Control Board to impanel an advisory group. SB 896; CH. 375.

§ 62.1-44.38:1 added. Water supply planning. Requires the State Water Control Board, in consultation with the State Health Commissioner, local governments, public service authorities, and other interested parties, to establish a comprehensive water supply planning process for the development of local, regional and state water supply plans. The planning process should (i) ensure that adequate and safe drinking water is available, (ii) encourage and protect all beneficial uses, and (iii) encourage, promote and develop incentives for alternative water sources. A citizens' technical advisory committee is to continue to advise DEQ and the Health Department regarding any changes needed in the Commonwealth's water resources policies and programs. The Board is to prepare a preliminary state water resources plan and proposed draft criteria for development of the local and regional plans by December 1, 2003. The preliminary plan, which will include information from existing local and regional water supply plans, is to be submitted to the Governor and the legislative committees with jurisdiction over the subject matter and the State Water Commission. SB 1221; CH. 227.

§§ 62.1-69.34, 62.1-69.35, 62.1-69.35:1, 62.1-69.35:2, 62.1-69.38, and 62.1-69.43. See § 30-156; SB 1315.

§§ 62.1-98, 62.1-136, and 62.1-150. See § 25.1-100; SB 1007.

§§ 62.1-198, 62.1-203, 62.1-209, 62.1-216, and 62.1-216.1 amended. **Virginia Resources Authority.** Adds airport facilities to the types of facilities that the Virginia Resources Authority ("Authority") may help local governments finance, and enhances the ability of the Authority to collect local obligations due the Commonwealth by broadening the types of agreements that the Authority and localities may enter into. SB 774; CH. 561.

§ 62.1-229.2 amended. **Virginia Water Facilities Revolving Fund; brownfields remediation.** Allows the State Water Control Board to extend loans from the Virginia Water Facilities Revolving Fund to localities, public authorities, partnerships or corporations for brownfields remediation activities. A brownfield is real property for which expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. HB 1748; CH. 407.

§ 62.1-229.3 added. **Virginia Water Facilities Revolving Fund.** Allows the State Water Control Board to make loans from the Virginia Water Facilities Revolving Fund to local governments or "holders" for purchasing or acquiring an interest in real property. The Board must consult with the Department of Conservation and Recreation to verify that the purchase protects or improves water quality and prevents the pollution of state waters and protects the natural or open-space values of the property or assures its availability for agricultural, forestal, recreational, or open-space use. SB 1051; CH. 574.

§ 62.1-234 amended. **Water supply fund.** Authorizes the Virginia Board of Health to enter into an agreement with the State Water Control Board to manage certain aspects of the Virginia Water Supply Revolving Fund, such as reviewing of financial assistance applications and project bid documents, monitoring projects, and ensuring compliance with environmental review. HB 2156; CH. 506.

TITLE 63.2. WELFARE (SOCIAL SERVICES).

§§ 63.2-100, 63.2-213, 63.2-224, 63.2-608, 63.2-702, 63.2-1205, 63.2-1206, 63.2-1715, 63.2-1717, 63.2-1719, 63.2-1724, 63.2-1738, 63.2-1802, 63.2-1803, and 63.2-1902 amended; §§ 63.2-1602.1 and 63.2-1304 added; § 20-87.1 repealed. **Recodification of Title 63.2; corrections bill.** Makes housekeeping amendments to several sections that were recodified in former Title 63.1. These amendments include correcting names of organizations, definitions and cross references; restoring court venues for adoption procedures, old language inadvertently dropped and a right of appeal to the Commissioner for certain social services programs; and moving a provision regarding the authority of the Department to access records to assist in locating persons liable for support from Title 20 to this title. The bill is a recommendation of the Virginia Code Commission. SB 1101; CH. 467.

§§ 63.2-226 and 63.2-227 amended; §§ 63.2-223, 63.2-224,

63.2-225, and 63.2-228 repealed. **Human Services Information and Referral Advisory Council.** Abolishes the Human Services Information and Referral Advisory Council and its Technical Assistance Committee. The Council recommends standards and policies for the development and implementation of a statewide human services information and referral system to provide information on or referral to appropriate public and private agencies at the state, local and regional levels. In 1995, the Joint Legislative Audit and Review Commission conducted a study on the Council and recommended that the Council move to a self-sustaining operation. The Council has been moving in this direction. This bill is identical to legislation recommended by the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 2187; CH. 75.

§§ 63.2-226 and 63.2-227 amended; §§ 63.2-223, 63.2-224, 63.2-225, and 63.2-228 repealed. **Human Services Information and Referral Advisory Council.** Abolishes the Human Services Information and Referral Advisory Council and its Technical Assistance Committee. The Council recommends standards and policies for the development and implementation of a statewide human services information and referral system to provide information on or referral to appropriate public and private agencies at the state, local and regional levels. In 1995, the Joint Legislative Audit and Review Commission conducted a study on the Council and recommended that the Council move to a self-sustaining operation. The Council has been moving in this direction. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 803; CH. 54.

§ 63.2-608 amended; §§ 32.1-328, 63.2-700, 63.2-701, and 63.2-702 repealed. **Elimination and consolidation of certain duplicative and inactive collegial bodies and their programs.** Abolishes the Advisory Board on Medicare and Medicaid and the Economic and Employment Improvement Program for Disadvantaged Persons and its Grant Awards Committee and its program.

This bill is similar in its objective to some of the legislation recommended by the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, and Councils and Other Governmental Entities pursuant to HJR 159 (2002). The elimination of the Advisory Board on Medicare and Medicaid and the Economic and Employment Improvement Program for Disadvantaged Persons Grant Awards Committee was not a recommendation of the HJR 159 study this year. HB 2380; CH. 428.

§ 63.2-910.1. See § 18.2-371; HB 2447/SB 1151.

§ 63.2-1208 amended. **Adoption; birth parent physical and mental history.** Requires the child-placing agency or local director of social services to document in the court report all

efforts made to encourage birth parents to share information related to their physical and mental history in all adoption proceedings. HB 2009; CH. 502.

§§ 16.1-241, 20-124.1, and 63.2-1215 amended. Parental rights. Clarifies that a "party with a legitimate interest" in a child, for purposes of making custody and visitation determinations, does not include persons whose interest in the child is derived from a parent (e.g., grandparents and other relatives) whose rights have been terminated if the child subsequently has been legally adopted, except in cases of stepparent adoption. The bill also clarifies that only such grandparents and other relatives are not divested of all legal rights in cases of stepparent adoption. This bill is not a change in current law and seeks to clarify current practice. SB 1298; CH. 229.

§§ 32.1-261 and 63.2-1220 amended. Recognition of foreign adoption decrees. Provides that adoptive parents who are residents of the Commonwealth may petition the circuit court in the city or county where they reside for a report of adoption when the adoptive parents are seeking a Virginia certificate of birth for a child adopted in a foreign country that has post-adoption reporting requirements and with whom the United States has diplomatic relations. The adoptive parents must provide the circuit court with evidence, such as an admission stamp in the child's passport, that the child was admitted to the United States with an immediate relative immigrant visa (IR-3), a report of adoption on a form furnished by the State Registrar of Vital Records, completed post-adoption reports, and a signed affidavit stating that any outstanding post-adoption requirements shall be met as required by the foreign country. The affidavit shall also include the name by which the child is to be known. The circuit court will review all documents provided by the adoptive parents. If the circuit court finds that all requirements have been met, the circuit court may issue the report of adoption to the State Registrar for issuance of a Virginia certificate of birth. Adoptive parents seeking to have a child from a foreign country adopted or who choose to readopt a child from a foreign country in Virginia must comply with all statutory adoption requirements in order to get a Virginia certificate of birth. HB 2233; CH. 985.

§ 63.2-1225 amended. Parental placement adoptions. Provides that when a licensed child-placing agency or a local board of social services accepts custody of a child for the purpose of placing the child with adoptive parents designated by the birth parent, such agency or local board may give consideration for placement of the child to the designated adoptive parents if the agency or local board finds the placement in the best interest of the child. HB 1514; CH. 779.

§ 63.2-1511 amended; § 63.2-1516.1 added. Child protective services; school personnel investigation procedures. Requires each local department of social services and school division to adopt a written interagency agreement as a protocol for investigating child abuse and neglect reports against school personnel. When the subject of the child abuse or neglect complaint is an employee of a local school board or employed in a school operated by the Commonwealth, the local department of

social services must conduct a face-to-face interview with the employee, and must notify the employee at the onset of the interview of the general nature of the complaint, of the identity of the alleged victim and of his right to have an attorney or other representative present during any interview. However, the failure by a representative of the Department of Social Services to so advise the subject of the complaint shall not cause an otherwise voluntary statement to be inadmissible in a criminal proceeding. The local department must give the employee a written summary of the investigation and an explanation of how the information gathered supports the disposition. HB 2288; CH. 986 /SB 1043; CH. 1013.

§ 63.2-1514 amended. Child protective services; retention of records. Requires that the records of family assessments shall be retained for three years after the date of the complaint or report, rather than the current one-year retention period. The records will be purged after such three-year period if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the report in that three-year period. SB 1306; CH. 634.

§ 63.2-1517. See § 16.1-251; HB 2188.

§ 63.2-1806. See § 32.1-162.3; HB 2772.

§§ 63.2-1902, 63.2-1927, 63.2-1929, and 63.2-1940.1. See § 16.1-278.16; HB 2405/SB 1206.

§§ 63.2-1923, 63.2-1924, 63.2-1925, and 63.2-1930 amended. Child support income withholding; service of process. Permits the Division of Child Support Enforcement in the Department of Social Services to issue income withholding orders and notices by first-class mail. The bill states that a noncustodial parent's employer issued an income withholding order by first-class mail shall not be liable to the Department unless the employer had actual notice of the order. SB 1157; CH. 469.

§ 63.2-2004 amended. Health professions; donation of services. Adds professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, and physical therapists to the list of health professionals eligible for a tax credit for donated services when such services are provided at a clinic where such services are provided at no charge or on a sliding fee. HB 1764; CH. 186.

TITLE 64.1. WILLS AND DECEDENTS' ESTATES.

§§ 32.1-325.02, 37.1-137.5, 55-286.1, 64.1-57, and 64.1-65.1 amended; §§ 55-286.2 and 64.1-196.1 through 64.1-196.15, added; §§ 64.1-188 through 64.1-196 repealed. Uniform Disclaimer of Property Interests Act. Repeals Chapter 8 of Title 64.1, dealing with disclaimer of property passing under testamentary interests by descent or distribution and replaces it with the Uniform Disclaimer of Property Interests Act (UD-

PIA), which was adopted by the National Conference of Commissioners on Uniform State Laws in 1978 and revised in 1999. The current Virginia disclaimer statute focuses on estate and gift tax consequences. The UDPIA broadens the situations in which disclaimers can be used and details the exercise and effect of disclaimers, including that acceptance is the only bar to a valid disclaimer and specifying the effects of a disclaimer. HB 1976; CH. 253.

§ 64.1-57 amended. Incorporating powers of fiduciary into will or trust instrument; definition of estate. Defines "estate" to include all interests in the property of an individual that passes by will or intestacy. The bill's purpose is to ensure that the fiduciary has access to property other than that to which he has title as fiduciary, for the purposes of paying any debts of the estate. HB 1977; CH. 30/SB 980; CH. 42.

§ 64.1-75.1 amended. Wills and decedents' estates; administrator. Authorizes the court to appoint an administrator solely for the purpose of prosecuting a personal injury or wrongful death action on behalf of an estate or the beneficiaries of the estate when there has been no such appointment or qualification. HB 2516; CH. 265.

§ 64.1-105 amended. Wills and decedents' estates; presumption of death. Provides a "specific peril" exception to the Enoch Arden statute that presumes that an individual who is absent or has disappeared for at least seven years has died. HB 1978; CH. 254.

TITLE 65.2. WORKERS' COMPENSATION.

§ 65.2-101 amended. Workers' compensation; smallpox vaccine. Expands the definition of "injury" for purposes of the workers' compensation, to include any injury, disease or condition that (i) arises out of and in the course of employment of an employee of a hospital, employee of a health care provider, employee of any state or local health department, member of a search and rescue organization, salaried or volunteer firefighter, paramedic, or emergency medical technician, member of the State Police Officers' Retirement System, member of a local police department, sheriff or deputy sheriff, or Capitol Police Officer, and (ii) results from the administration of the vaccinia vaccine, Cidofivir, or Vaccinia Immune Globulin, as part of federal smallpox countermeasures, or from the transmission of vaccinia in the course of employment from an employee participating in such countermeasures to a co-employee of the same employer. HB 2728; CH. 999.

§ 65.2-402.1 amended. Workers' compensation; infectious disease presumption. Provides that the existing provision that delays, until six months after an employee has undergone a preemployment physical examination, the presumption that certain diseases causing the death or disability of a firefighter or certain other employees who have a documented occupational exposure to blood or body fluids are presumed to be occupational diseases does not apply if a person entitled to in-

voke the presumption demonstrates a documented exposure during the six-month period. HB 1877; CH. 842.

§§ 65.2-704, 65.2-705, and 65.2-706 amended. Workers' compensation; notice procedures. Requires decisions of the Workers' Compensation Commission to be sent by priority mail with delivery confirmation or equivalent mailing option. Currently, such notices must be sent by registered or certified mail. The measure also provides that if a party is represented by counsel, the counsel's receipt of the decision will be deemed to be receipt by the party. HB 2451; CH. 664/SB 1132; CH. 671.

APPROPRIATIONS AND BONDS.

Budget Bill. Provides appropriation of the public revenue for the two years ending respectively on the thirtieth day of June, 2003, and the thirtieth day of June, 2004. HB 1400; CH. 1042 (effective 5/1/03).

Part 4 of the 2003 Appropriation Act makes the following changes to the Code of Virginia:

§§ 16.1-69.48:1.01 and 17.1-275.11 added. Provides for a fee, in addition to all other court fees under current law, of \$100 upon conviction of any and each charge of violating certain criminal laws in regard to driving while intoxicated or driving under the influence, or any similar local ordinance. The additional fee is to be assessed beginning May 1, 2003.

§ 17.1-275.10 added. Provides for court costs, in addition to all other court costs under current law, of two dollars upon conviction of a misdemeanor or felony. All moneys collected under this section shall be deposited into the Intensified Drug Enforcement Jurisdiction Fund. The additional court costs are to be assessed beginning May 1, 2003.

Part 4 of the 2003 Appropriation Act makes Article 1.1 (**§ 37.1-70.1 et seq.; Civil Commitment of Sexually Violent Predators**) of Chapter 2 of Title 37.1 effective on the earliest of the date of enactment of HB 1400, HB 2445, or SB 1149 of the 2003 Session of the General Assembly, whichever is the first to be enacted.

§ 46.2-214.1 added. Provides that the Commissioner of the Department of Motor Vehicles shall charge an additional fee of two dollars for furnishing information. This fee shall be in addition to all other fees charged by the Department of Motor Vehicles under current law, including fees authorized under § 46.2-214 for the furnishing of information. The fee may not be charged to officials of federal, state, or local governments if the information is for official use. The additional fee is to be charged beginning July 1, 2002. This new section codifies the additional two dollar charge for the furnishing of information by the Department of Motor Vehicles that first became law in HB 30 (the budget bill for the period of July 1, 2002, through June 30, 2004) of the 2002 Session of the General Assembly.

§ 46.2-216.3 repealed. Repeals the act that authorized the Commissioner of the Department of Motor Vehicles to use discounts and other incentives to encourage customers to conduct transactions with the Department through the mail or by means of electronic communication. The repeal codifies budget language in HBs 29 and 30 of the 2002 Session of the General Assembly, which provided that the provisions of § 46.2-216.3 shall no longer apply.

§ 46.2-333.1 added. Provides for additional fees to be imposed by the Department of Motor Vehicles beginning May 1, 2003. Under the statute, the additional fee for a driver's license, other than a commercial driver's license, shall be \$1.60 per year of validity of the license; the additional fee for a commercial driver's license shall be one dollar per year of validity of the license; the additional fee to replace or reissue any driver's license shall be five dollars; the additional fee to replace or reissue any driver's license shall be five dollars; the additional fee for the issuance of a special identification card shall be five dollars; and the additional fee for reinstatement of any driver's license shall be \$15. These fees are in addition to the fees currently required under law for driver's licenses, the replacement or reissuance of a driver's license, the issuance of a special identification card, and the reinstatement of a driver's license.

All moneys collected under this section shall be deposited into a special fund to be used to support the operation and activities of the Department's customer service centers.

§ 46.2-697.1 repealed. Repeals the act that authorized the Commissioner of the Department of Motor Vehicles to use discounts and other incentives to encourage owners of motor vehicles, trailers, or semitrailers to register their vehicles on a multi-year basis or through electronic communications. The repeal codifies budget language in HBs 29 and 30 of the 2002 Session of the General Assembly, which provided that the provisions of § 46.2-697.1 shall no longer apply.

§ 58.1-615 amended. Provides that certain Virginia dealers shall make an additional sales and use tax remittance to the Commonwealth in June of each year. The additional June remittance shall equal 90 percent of the sales and use tax liability for the preceding June, and the remittance shall be made on or before June 30 if payment is made by electronic funds transfer and on or before June 25 if payment is made by other than electronic funds transfer. Only those dealers with taxable sales and purchases of at least \$1.3 million for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year shall be required to make the additional remittance. This remittance is in addition to the remittance for May sales and use taxes required to be made by June 20. Dealers failing to make the additional remittance within the time frames required or failing to make full payment will be subject to a six percent penalty of the amount of tax underpayment. The amount paid in the additional remittance shall be credited against the amount of tax due to be remitted in July for June sales.

These amendments to § 58.1-615 codify the same additional remittance requirements that first became law in HBs 29 and

30 (the two budget bills) of the 2002 Session of the General Assembly.

Bonds; Longwood College. Authorizes the treasury board to issue bonds in the amount of \$10,500,000 pursuant to Article X, Section 9(c) of the Constitution of Virginia, for paying costs of renovating housing facilities at Longwood College. HB 1536; CH. 4/SB 746; CH. 157.

CLAIMS.

Anderson, Marvin Lamont. Provides relief for Marvin Lamont Anderson who was incarcerated between 1983 and 1997 for a crime that scientific evidence later revealed he did not commit. Governor Warner granted him a full and absolute pardon on August 22, 2002. Under the bill, the Commonwealth will provide a lump-sum payment to Mr. Anderson of \$200,000 to be paid by August 1, 2003, and pay \$460,000 to purchase a non-assignable annuity for the benefit of Mr. Anderson providing for equal monthly payments to him for the remainder of his life commencing on or before September 1, 2003. SB 863; CH. 826.

Lawrence, Elmo and Mary. Provides relief to Elmo and Mary Lawrence who sustained more than \$40,000 in damages from Carl E. Thacker, a licensed Virginia contractor hired by the Lawrences to renovate a house. The Lawrences fired Mr. Thacker from the project and were unable to obtain a judgment against Mr. Thacker before he committed suicide. The bill directs the State Board for Contractors to review the Lawrences' claim under the Contractor Transaction Recovery Act and determine if the conduct of the contractor amounted to improper or dishonest conduct. If the Board finds improper or dishonest conduct, the bill further directs the Board to allocate from the Contractor Transaction Recovery Fund the Lawrences' claim, subject to the limitations of the Act. HB 2630; CH. 441.

McCowan, Owens, et al. Provides relief for Rocky McCowan, Michael Owens, Steve Farmer, James Lee, and Robert Hicks. The five individuals were shareholders of a subchapter S corporation operating in Kentucky. An audit conducted by tax officials in Kentucky determined that the individuals owed varying amounts in income taxes for taxable years 1992 through 1996. The bill directs the Department of Taxation to review the amended income tax returns submitted by each of the individuals for taxable years 1992 through 1996 and provide them the out-of-state tax credit that they would have received on their Virginia income tax returns for those years. Any amount refunded by the Department of Taxation shall be without interest, and any amended income tax returns are required to be filed by October 1, 2003, as a condition of any refund being issued. HB 2161; CH. 203.

Wheeling, Deborah G. Provides relief to Deborah G. Wheeling by allowing her to submit additional medical records to the Virginia Retirement System for review regarding her applica-

tion for disability retirement. Ms. Wheeling must provide the medical records within 60 days of the effective date of the act. HB 2071; CH. 419.

CONSTITUTIONAL AMENDMENTS.

Constitutional amendment (first resolution); restoration of civil rights for certain felons. Authorizes the General Assembly to provide by general law for the restoration of civil rights for persons convicted of nonviolent felonies who meet the conditions prescribed by law. The present Constitution provides for restoration of rights by the Governor. The amendment retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons convicted of nonviolent felonies. HJR 635; CH. 958/ SJR 283; CH. 956.

Constitutional amendment (first resolution); succession to the office of Governor. Expands the list of successors to the office of Governor, which presently includes the Lieutenant Governor, Attorney General, and Speaker of the House of Delegates, in case of an emergency or enemy attack that prevents the House of Delegates from meeting to elect a governor. The successors would include successor speakers, the President pro tempore of the Senate, and the majority leader of the Senate. The successor would be Acting Governor until the House of Delegates convened to elect a Governor. The amendment also includes authority for the General Assembly, by law, to provide for a waiver of certain eligibility requirements for the Attorney General and Speaker to succeed to the office of Governor in the event of an emergency or enemy attack upon the soil of Virginia. HJR 641; CH. 959.

Constitutional amendment (first resolution); effective dates of decennial redistricting measures; vacancies. Continues the requirement that decennial reapportionment or redistricting measures shall be enacted in the first year after the decennial census (2011, etc.). The proposed amendment spells out that the new lines will be implemented for the first November general election held just prior to the expiration of the term being served in the year of the redistricting. The new language, in effect, continues the existing practice and understanding that there will be regular November elections from new districts in 2011 for the House of Delegates and Senate, in 2012 for the United States House of Representatives, in 2021 for the House of Delegates, in 2022 for the House of Representatives, in 2023 for the Senate, and so forth. The proposed amendment further provides explicitly that the members in office when a decennial reapportionment law is enacted shall complete their terms of office and continue to represent the districts from which they were elected for the duration of those terms of office. Another new provision specifies that any vacancy occurring during such terms will be filled from the preexisting district, i.e., the same district that elected the member whose vacancy is being filled. The proposed amendment continues the present provision that reapportionment laws take effect "immediately" without being

subject to the usual requirement for a four-fifths vote in each house of the General Assembly to approve an emergency measure. This exception to the emergency vote requirement remains necessary. There is usually only a short time available to draw new lines after the release of census redistricting data early in the year following the census, and before the nomination and election timetable begins for that year's November election. SJR 417; CH. 957.

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