

Session Highlights 2006

Virginia Division of Legislative Services

Adoption

Passed

Adoption laws. In addition to procedural and administrative changes to adoption laws, the bill creates a "designated adoption," a new form of adoption where a birth parent may designate adoptive parents but may use agency adoption, and the exchange of certain identifying information does not have to occur. The bill also establishes a putative father registry, where any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived and may register with the Registry, which will entitle him to notice if the child is placed for adoption.

Mutual consent adoption registry. Creates a mutual consent adoption registry that allows birth parents and adoptees to exchange identifying information after the adoptee has reached 21 years of age.

Agriculture

Passed

Avian Flu. Allows the Commissioner of Agriculture and Consumer Services to adopt regulations to prevent and control avian influenza in commercial and noncommercial poultry, including regulations that affect the live-bird marketing system, and authorizes the Commissioner to participate in the federal Live Bird Marketing Program of the U.S. Department of Agriculture.

Business

Passed

Cable competition. Establishes a new procedure by which cable operators may

obtain authorization to operate cable systems in localities, which may grant ordinance cable franchises as an alternative to negotiated cable franchises. Ordinance cable franchises may be requested by certificated providers of telecommunications services with previous consent to use a locality's rights-of-way, after requesting to negotiate a cable franchise agreement. Upon receipt of an application for an ordinance cable franchise, the locality shall adopt necessary ordinances within 120 days.

Small business health insurance. Authorizes the establishment of cooperatives for the purpose of offering, providing, or facilitating the provision of coverage for health care services to participating small employers. Membership in health group cooperatives is limited to employers with not more than 50 eligible employees. A small employer health group cooperative is deemed to be a single entity for purposes of negotiating the terms, including premium rates of coverage. Cooperatives shall elect to either be the policyholder of a group policy covering employer-members or a sponsoring entity that facilitates the provision of separate policies for each of its employer-members.

Small, women, or minority business. Includes small and women business enterprises in the certification program administered by the Department of Minority Business Enterprise. Such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women, or minority business enterprises. The bill also provides that a business certified by the Department shall not be required by any locality to obtain any additional certification.

Failed

Minimum wage. Increases the minimum wage from its current federally mandated level of \$5.15 per hour to \$6.15 per hour effective July 1, 2006; to \$7.15 per hour effective July 1, 2007; and to \$8.15 per hour effective July 1, 2008. For subsequent years, the minimum wage will be adjusted annually on July 1 to reflect changes in the Consumer Price Index for the preceding calendar year.

Small business health insurance. Provides a tax credit to employers with 50 or fewer full-time employees who pay at least one-half of the annual health insurance premium per employee.

Constitutional Amendment

Passed

Marriage. Provides for a referendum at the November 2006 election on approval of a proposed constitutional amendment to define marriage. The proposed amendment states that "only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions" and prohibits the creation or recognition of other relationships approximating marriage. The entire proposed amendment will appear on the ballot.

Consumers

Failed

Freezing access to credit reports. Authorizes any consumer to freeze access to his credit report. If a consumer has placed a freeze, a consumer reporting agency is pro-

Session Highlights summarizes significant legislation considered by the 2006 General Assembly, as selected by the staff of the Division of Legislative Services. This brief overview of the Session covers Assembly actions through the Reconvened Session on April 19, 2006.

hibited from releasing the credit report, or any information in it, without the consumer's express authorization. A consumer can release his report, permanently, temporarily, or to a specific third party, and certain disclosures are exempt from the freeze.

Carried Over

Pay day lenders. By repealing the Pay Day Loan Act, the bill effectively bans pay day loans in Virginia.

Courts

Passed

Sex Offenders. Omnibus bill amends provisions related to the Sex Offender and Crimes Against Minors Registry by adding numerous qualifying offenses, including possession of child pornography and murder of a child. Registration requirements for sex offenders are amended to require more timely registration and to increase penalties for failing to register. Penalties are increased for certain sex crimes, including offenses involving a child under 13 years of age, and the list of offenses that qualify as sexually violent offenses for purposes of civil commitment is expanded to include, among others, abduction of a child under 16 years of age for the purpose of prostitution.

Mandatory reporting of child abuse and neglect. Requires any person who voluntarily undergoes training in recognition of child abuse to report suspected child abuse or neglect to a local department of social services or the Department of Social Services' toll-free child abuse and neglect hotline.

Methamphetamine precursor drugs. Bans the sale of methamphetamine precursor drugs (ephedrine and pseudoephedrine) except from behind the counter or with other comparable restrictions. Also provides that no more than 3.6 grams of either ephedrine or pseudoephedrine may be sold daily per individual. The penalty for violation of these provisions is a Class 1 misdemeanor.

Dangerous dogs. Expands the authority to petition a court to find a dog dangerous to any law-enforcement officer and makes that petition mandatory. A Virginia Dangerous Dog Registry is created to be maintained by the State Veterinarian, and any change in the status of a dangerous dog is to be promptly submitted in writing. The bill also (i) expands the definition of "dangerous dogs"; (ii) requires that a dog that has been found to be dangerous or vicious shall be spayed or neutered; and (iii) requires insurance be maintained for a

dangerous dog and raises the policy limit requirement to \$100,000.

Protests at funerals. Punishes the disruption of a funeral or memorial service as disorderly conduct, a Class 1 misdemeanor.

Failed

Teen drivers and cell phones. Prohibits persons under the age of 18 from using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is handheld, while driving.

Eminent domain. Provides a definition of "public uses" as embracing only the ownership, possession, occupation, and enjoyment of land by the public or public agencies, and public corporations and public service companies, and that any taking of private property "must be necessary to achieve the public use, and the public interest must dominate the private gain."

Education

Passed

No Child Left Behind. Directs the Board of Education to develop a plan to identify initiatives or conditions that are currently being funded by No Child Left Behind and that are not an integral and necessary component of the Standards of Quality, Standards of Accreditation, or Standards of Learning. The plan must also address consequences, including potential loss of federal funding, if the Commonwealth elects not to comply with the identified components.

Qualifications for providing home instruction. Requires persons providing home instruction to hold a high school diploma. Under current law, such individuals must hold a baccalaureate degree.

School boundaries for children of military personnel. Provides that tuition shall not be charged to children of active members of the military who are ordered to locate to military housing located in a different school division. Such children shall be allowed to continue attending school in the school division they attended immediately prior to the relocation and shall not be charged tuition.

Internet safety instruction. Adds a requirement that Internet use policies developed by division superintendents include a component on Internet safety for students that is integrated in a division's instructional program.

Carried Over

Abstinence in family life curricula. Requires that any family life education course including a discussion of sexual in-

tercourse emphasizes that abstinence is the accepted norm and the only guarantee against unwanted pregnancy.

Tuition for children of military personnel. Any person of school age who resides on a military or naval reservation situated in the geographical boundaries of more than one school division shall be eligible to attend the public schools of any such school division and shall not be denied admission or charged tuition.

Elections

Passed

Campaign Finance Disclosure Act of 2006. Enacts a new campaign finance disclosure act and reorganizes, rennumbers, and clarifies provisions on campaign finance disclosure, political advertisements, and campaign fundraising during General Assembly sessions.

Campaign finance. Requires federal and IRS 527 or out-of-state committees contributing more than \$10,000 to candidates in Virginia to register with the State Board of Elections. Information on contributors of \$2,500 or more to 527 or out-of-state committees will be filed with the State Board and available to the public. Candidates accepting more than \$10,000 from a committee must verify that the committee has registered with the State Board.

Energy

Passed

Virginia Energy Plan. New Code title that calls for the Division of Energy to develop a 10-year comprehensive energy plan. The bill states that it shall be the policy of the Commonwealth to support federal efforts to determine the extent of natural gas resources 50 miles or more off the Atlantic shoreline, including appropriate federal funding for such an investigation, and that it shall be the policy of the Commonwealth to support federal efforts to examine the feasibility of offshore wind energy being utilized in an environmentally responsible fashion. Requires the development of a system for scoring sites based on their suitability for wind or solar energy facilities. The bill also requires state agencies to ensure that the design and construction of state-owned buildings comply with energy standards; establishes a center at Virginia Tech to study cleaner ways to burn coal; requires the SCC and the Secretary of Natural Resources to develop a proposal for a coordinated review of permits for any energy project that requires an environmental permit; requires Dominion Virginia Power to apply for an

nual fuel factor adjustments to its electricity rates commencing on July 1, 2007; and provides grants for producing electricity from renewable sources and for purchasing photovoltaic, solar, and wind power generating property.

Health

Passed

Medicaid, long-term care. Requires the Board of Medical Assistance Services to establish a public-private long-term care partnership program between the Commonwealth and private insurance companies to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated by the Department as “partnership policies” that may be used as the first source of benefits for the participant’s long-term care.

Virginia Cord Blood Bank Initiative. Establishes the Virginia Cord Blood Bank Initiative as a public resource for Virginians for the treatment of patients with life-threatening illnesses or debilitating conditions, for use in advancing basic and clinical research, and, in the event of a terrorist attack, to be used in the treatment of the injured citizens of the Commonwealth.

Failed

Indoor smoking ban. Prohibits smoking indoors in most buildings or enclosed areas frequented by the public. Exceptions are provided for private homes, certain private functions held in public facilities, hotel or motel rooms clearly designated as “smoking” rooms, specialty tobacco stores, and tobacco manufacturers. Any person who continues to smoke in an area in which smoking is prohibited after having been asked to refrain will be subject to a civil penalty of not more than \$100. Civil penalties of \$250 will be levied for subsequent offenses.

Carried Over

Inspector General for Medical Assistance Services. Establishes the Office of Inspector General for Medical Assistance Services to provide objective review and evaluation of all activities and services of the Department of Medical Assistance Services and investigation and diligent prosecution of provider or recipient fraud and abuse.

Higher Education

Passed

Textbooks. The governing boards of public institutions of higher education must implement policies for minimizing the cost of

textbooks for students. The guidelines must require (i) that faculty members submit lists of their required textbooks to the university bookstore in a timely manner, (ii) that any on-campus university bookstore selling textbooks to students as part of a package with other study products also sell such textbooks separate of such study products, (iii) that faculty members affirmatively acknowledge the price of textbooks they require before the order is complete, (iv) that faculty be encouraged to limit their use of new edition textbooks, and (v) that sample copies of textbooks be made available for students in the university library.

New College Institute. Establishes the New College Institute as a governmental instrumentality in the area of Martinsville and Henry Counties. The New College Institute is charged with, among other things, expanding educational opportunities in the region by providing access to degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with private and public institutions of higher education, the public schools, and public and private sectors.

Children of military personnel. Children of active duty military personnel assigned to a permanent duty station in Virginia who reside in Virginia shall be eligible to receive in-state tuition in Virginia.

Articulation and transfer. Requires all four-year public institutions of higher education to develop articulation, transfer, and dual enrollment and admissions agreements, including dual admissions programs for qualified students to be simultaneously accepted by a community college and, contingent upon the successful completion of an acceptable associate degree program from the community college, by the four-year public institution of higher education.

In-state tuition limitation. Provides that students entitled to in-state tuition will be assessed a surcharge upon satisfactorily completing 125% of the student’s program.

Failed

Private College Enrollment Grant Program. The purpose of the program is to provide higher education grants on a per capita basis to private nonprofit institutions of higher education that agree, in the interest of providing access to higher education for Virginia’s burgeoning student population, to enroll Virginia residents.

Community College Transfer Grant Program. The program provides higher education grants or vouchers to domiciles of Virginia who have successfully completed an acceptable associate degree program at a Virginia community college or Richard Bland College and have been admit-

ted to an accredited nonprofit public or private institution of higher education in the Commonwealth. The amount of the award will either be based on the difference between the cost of tuition paid by the recipient at a Virginia community college and the cost of such tuition at the four-year institution of higher education in which the student has been enrolled, or in the case of transfer to a private four-year college or university, the difference between the cost of tuition paid by the recipient at a Virginia community college and the average cost of such tuition at a Virginia public four-year institution of higher education. Eligibility for the program is limited to domiciles of the Commonwealth, and recipients of grants or vouchers may only receive such tuition assistance for two academic years or the equivalent number or credit hours.

Illegal Immigrants

Failed

Admission of illegal aliens to public institutions of higher education. Provides that an alien who is unlawfully present in the United States shall not be eligible for enrollment in any public institution of higher education in the Commonwealth.

Carried Over

In-state tuition. Prohibits in-state tuition rates for individuals who are not citizens or nationals of the United States, are unlawfully present in the United States, or do not possess a valid visa. However, any person meeting certain conditions, such as residing in Virginia while attending high school, graduating from a public or private high school in Virginia, residing in the Commonwealth for at least three years on the date of high school graduation, will be eligible for in-state tuition.

Document verification for employment. Requires employers to obtain employment eligibility verification documentation indicating that a prospective employee is legally eligible for employment in the United States. Violations involving the knowing employment of persons not legally eligible for employment in the United States, in addition to being Class 1 misdemeanors, are punishable by a fine of \$10,000.

Local Government

Passed

Coordination of state and local transportation planning. Prior to adoption of any comprehensive plan or amendment a locality shall submit the plan or amendment to the Department of Transportation for review and comment. The ap-

plication shall include a traffic impact statement if required by the locality by ordinance. Furthermore, upon submission to a locality of a subdivision plat or a site plan or plan of development, the locality shall submit the plat or plan to the Department of Transportation within five days of receipt.

Natural Resources

Passed

Air emission controls. Establishes a phased schedule for electric generating units in Virginia to reduce their emissions of sulfur dioxide, nitrogen oxide, and mercury. The Air Pollution Control Board is charged with promulgating the regulations that require specific numerical reductions in each pollutant. The bill allows regulated facilities to participate in the EPA administered cap and trade system; however, the Board can prohibit facilities in nonattainment areas from purchasing allowances in order to meet their NO_x and SO₂ obligations. The bill also requires the Board to adopt the Federal Clean Air Mercury Rule as well as adopt a state-specific rule for mercury.

Failed

Menhaden limits. Limits the amount of menhaden that can be harvested annually in the Chesapeake Bay and its tributaries from 2006 through 2010 in accordance with the cap placed on the fishery by the Atlantic States Marine Fisheries Commission in its Atlantic Menhaden Fishery Management Plan.

Sunday hunting. Allows hunting on the first Sunday of early archery deer season, early muzzleloader deer season, and general firearms deer season. Other measures authorize localities to allow Sunday hunting and allow Sunday hunting west of the Blue Ridge.

Reproductive Health

Failed

Licensure of abortion clinics. Requires all abortion clinics to be licensed and to comply with the requirements currently in place for ambulatory surgery centers, except the requirement for a certificate of public need.

Physicians performing abortions.

Requires any physician performing abortions in the Commonwealth to reside and practice in Virginia and have practice privileges in a Virginia hospital.

Notification to parents of certain health services to minors.

Requires any state or local government agency employee who provides services to a minor relating to sexually transmitted diseases, the provision of emergency contraception, pregnancy, illegal drug use, or the contemplation of suicide to attempt notification, within two business days of delivery of such services, to a custodial parent, legal guardian, or other person standing *in loco parentis*.

Social Services

Passed

Kinship foster care. Requires a local board of social services, before making a foster care placement, to first seek out kinship foster care. Kinship foster care placements are subject to the requirements, and receive the benefits, of other foster care placements, including payments for the care of the child.

Taxes

Passed

Back to school "tax holiday." Provides a sales tax exemption, beginning in 2006, for certain school supplies, clothing, and footwear purchased during a three-day period each year beginning on the first Friday in August. The exempt items are each school supply item with a selling price of \$20 or less and each article of clothing or footwear with a selling price of \$100 or less.

Communications tax reform. Completely revises the taxation of communications services by applying a statewide communications sales and use tax to retail communication and video services at a rate of 5%.

Tax credit for long-term care

insurance. Provides a credit against individual income taxes for certain long-term care insurance premiums. The amount of the credit for each taxable year shall equal 15 percent of the amount paid during the taxable year by the individual in long-term care insurance premiums.

Failed

Titling tax increase. Increases the motor vehicle sales and use tax from 3% to 5% and dedicates the revenue generated for transportation purposes.

Sales tax increase in Northern Virginia. Imposes an additional 0.25% sales

and use tax in Arlington County, Fairfax County, the City of Alexandria, the City of Fairfax, and the City of Falls Church if approved by ordinance by the governing bodies of those localities whose population comprise at least 90% of the population in all of such localities. The revenue is to be used solely for each locality's financial obligations to the Washington Metropolitan Area Transit Authority.

Tax legislation sunset date. Requires a sunset date on all taxation bills that add new taxes or increase tax rates.

Estate tax. Provides that for deaths occurring on or after December 31, 2006, a tax in the amount of the federal credit shall be imposed on the taxable estate of a resident whose gross estate exceeds \$10 million. However, the tax will not be imposed on an estate if the majority of the assets are an interest in a closely-held business or a working farm.

Transportation

Passed

Public-Private Transportation Act of 1995 (PPTA). Provides for the granting of concessions under the PPTA and the taxation thereof.

Commonwealth Transportation Board.

Provides for the election of the non-at-large members of the Commonwealth Transportation Board by the General Assembly.

Failed

Hampton Roads Bridge and Tunnel. Establishes the Hampton Roads Bridge and Tunnel Authority and transfers from VDOT to the Authority control of and responsibility for seven facilities in Hampton Roads. The bill allows the Authority to impose and collect tolls for the use of these facilities and provides for the eventual transfer to the Authority control of and responsibility for the Chesapeake Bay Bridge-Tunnel as well.

Joint Commission on Transportation Accountability.

Creates the Joint Commission on Transportation Accountability to carry out close legislative oversight of state agencies with transportation responsibilities.

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Published by the
 Division of Legislative Services
<http://dls.state.va.us/pubs/hilights/welcome.htm>

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