

# Virginia Legislative Record

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## Special Subcommittees of the House Committee on General Laws and Senate Committee on Rehabilitation & Social Services Studying Certain ABC Issues

July 29, 2008

A joint meeting of the Special Subcommittees of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services Studying Certain ABC Issues met in Richmond with Delegate Terrie Suit as chair.

### Presentations

#### **Pam Evans, Chair, ABC Board**

Pam Evans addressed the special subcommittees and offered the board's assistance and support. She explained that the single biggest complaint to the board is the complexity of the license application process and continuing license requirements.

#### **Curtis Coleburn, ABC Board**

Curtis Coleburn addressed the special subcommittees on the planned elimination of the five-food-groups stocking requirements for certain off-premises licensees. Although the requirements would be eliminated, the dollar amount of inventory and sales requirement would remain.

Mr. Coleburn also addressed the enforcement challenge of the ABC Board. Between 2004 and 2007 the number of licenses increased from 14,000 to 19,000, yet the number of enforcement officers has not changed. The chairman asked why the ABC Board, a self-funded agency, has not hired more enforcement staff. Mr. Coleburn responded that even though ABC is self-funded, the General Assembly limits the board's overall budget. He stated that ABC

has hired more civilian employees to assist agents in processing the licensing paperwork.

Finally, Mr. Coleburn reviewed ABC laws and regulations in other states. Most significantly, approximately 40 states have some form of food requirement for establishments serving mixed beverages. The majority of those states simply require food to be available during times mixed beverages are served. Additionally, 13 states only permit restaurants to serve mixed beverages. He also noted that states use seat, table, kitchen, proximity, population, high licensing fees, and square footage requirements to assist in limiting the number of mixed beverage licenses granted. One of the more unique regulatory requirements exists in Texas, where licensees have to post a bond to get a license. Any violations of law or regulation by the licensee will result in forfeiture of the bond. Mr. Coleburn stated that 43 states have dram shop liability.

### Limited Service License Discussion

Next there was a discussion of a new licensing category, limited service license, that would include day spa, meal assembly kitchen, certain annual banquet, and museums licenses, where service of alcoholic beverages to patrons is incidental to the main business activity of the licensee. Limited service licenses must have food available when alcoholic beverages are served as part of the requirements for the license.

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#### **Regulatory Alert**

*For more information, visit study websites.*

*DLS staff members maintain a comprehensive website on each study that contains a complete summary of each meeting and links to additional study information, handouts, and resources.*

Between  
2004 and 2007,  
the number of  
ABC licenses  
increased from  
14,000 to  
19,000.

Chairman Suit asked if any new requirements based on population or proximity account for the influx of tourists in certain parts of the Commonwealth. The members began a discussion reviewing the potential impact that new licensing requirements would have on existing and future licensees. Generally, all members agreed that the food requirement should still be a major component of most mixed beverage licenses.

With regard to the new licensing category, the members asked staff to present a more detailed draft for the next meeting. Delegate Albo stated that he would like to consider eliminating the 45% ratio requirement for certain mixed beverage licensees, but ultimately all mixed beverage licensees should be required to have a full kitchen.

## Public Comment

One member of the public stated that there are already too many mixed beverage licenses issued and would like to see the special subcommittees work to limit the number of mixed beverage licenses granted. Walter Marston expressed concern about the proliferation of licenses and that any new license category the subcommittee may propose should have a means of limiting the number of licenses granted. A representative from the Virginia Nightlife

Association also spoke to the members and offered his assistance.

## Next Meeting

The chairman asked that staff work with industry members to develop an alternative to the food ratio requirement for certain mixed beverage licensees. The next meeting date will be posted on the study's website and the General Assembly calendar as soon as information is available.

### *Joint Meeting of the Special Subcommittees of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services Studying Certain ABC Issues*

Senator Linda "Toddy" Puller, Chair  
Delegate Terrie Suit, Chair

Maria Everett and Patrick Cushing, DLS Staff  
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study website  
<http://dls.state.va.us/ABC.htm>

## SJR 77: Joint Subcommittee to Study Strategies and Models for the Prevention and Treatment of Substance Abuse

July 31, 2008

The first meeting of the joint subcommittee was held at the General Assembly Building in Richmond. Senator Emmett W. Hanger, Jr., was elected chair and Delegate John O'Bannon III was elected vice-chair.

## Presentations

### **Nathalie Molliet-Ribet, JLARC**

Nathalie Molliet-Ribet presented the Joint Legislative Audit and Review Commission's report, *Mitigating the Cost of Substance Abuse in the Commonwealth*. Ms. Molliet-Ribet stated that substance abuse cost the Commonwealth approximately \$613 million in 2006, with \$595 million, or 96% of the total cost, resulting from criminal justice-related expenditures, primarily the costs of housing offenders convicted of drug-related crimes. She noted that during the same

period, state and local governments spent \$102 million to provide substance abuse treatment and prevention services. She stated that evidence conclusively shows that treatment works, and that the fiscal cost of substance abuse to the Commonwealth and localities can be reduced through treatment and prevention services.

Ms. Molliet-Ribet described a number of recommendations for increasing the effectiveness of substance abuse treatment and prevention services and limiting the costs of substance abuse to the Commonwealth and local governments.

### **Raymond Ratke, Dept of Mental Health, Mental Retardation & Substance Abuse Services**

Raymond Ratke presented the department's response to the Joint Legislative Audit and Review Commission report, highlighting efforts undertaken by the Department to comply with the recommendations contained in the report.

**Dr. Mady Chalk, Director, Center for Policy Analysis and Research, Treatment Research Institute**

Dr. Chalk discussed elements of successful and cost-effective substance abuse treatment programs, noting that substance abuse is a chronic disease that needs to be managed in a manner similar to management of other chronic diseases. Dr. Chalk reiterated the point made earlier that treatment works to limit the impact of substance abuse, and volunteered to provide information to the joint subcommittee on promising substance abuse treatment models in other states.

**Dr. Joel Grube, Director Pacific Institute for Research & Evaluation**

Dr. Grube presented information on substance abuse prevention models specifically targeting adolescent and underaged drinking. He highlighted programs that have proven to be successful in reducing substance abuse among these populations, including increasing alcohol taxes and graduating licensing.

**Douglas Meade, Occupational Enterprises, Inc.**

Douglas Meade of Occupational Enterprises, Inc. began a series of presentations from speakers representing a coalition of interested stakeholders from Southwest Virginia. Mr. Meade characterized Southwest Virginia as "under attack" by drugs. He stated that the coalition is working to inventory effective substance abuse programs.

**Ron Allison, Exec. Director, Cumberland Mountain Community Services Board**

Ron Allison expressed concerns regarding the effects of current low Medicaid reimbursement for drug abuse treatment. He explained that in Southwest Virginia, the only consistently available treatment for person suffering from substance abuse problems is a five- to seven-day detoxification program that, absent sufficient support and follow-up services, accomplishes little. Mr. Allison noted a need for data sharing among the agencies and institutions providing treatment and for gender-specific treatment, particularly for pregnant women, and pointed out that prevention programs based on evidence-based practices are successful and should be incorporated into substance abuse treatment programs. Finally, Mr. Allison observed that since the drugs most abused are legally acquired

prescription drugs, area physicians need to develop pain management programs.

**Tom Casteel, Director, Washington County Department of Social Services**

Tom Casteel described the effect of substance abuse on local social services departments, and explained that substance abuse has become the most common reason for a child to enter foster care in Southwest Virginia, resulting in a substantial increase in foster care needs. Mr. Casteel also stated that cases of substance-exposed infants are rising steadily.

**Dennis Lee, Commonwealth's Attorney for Tazewell County**

Dennis Lee noted that the county crime rate tripled after the introduction of OxyContin to the region and that as much as 90% of crime in the county was related to substance abuse. Mr. Lee stated that Tazewell County had built a new jail which, due to the sudden and massive increase in substance abuse-related crimes, was full and beyond capacity at the time it opened. He said the county has a fledgling, nonstatutory drug court that has been successful in addressing substance abuse problems in the county, but that the drug court lacks sufficient funding and currently relies on community resources to function. Acknowledging that Tazewell has found some programs that work such as the drug court and day reporting centers, Mr. Lee stated that the programs are woefully underfunded and Tazewell is a community in crisis.

**Bruce Kravitz, Southwestern VA Alliance for Manufacturing**

Bruce Kravitz spoke about the need for skilled factory labor in Southwest Virginia and the difficulty in finding or keeping good employees. He said that many potential good workers either fail, or refuse to submit to, drug screening and that this has resulted in difficulty in filling open positions.

**Mark Larson, Occupational Enterprises, Inc.**

Mark Larson stressed the need for a "system of care" approach in treating substance abuse issues, and stated that the following are needed to create a successful program: drug courts, residential treatment centers, an integrated information system, and aftercare including provisions for jobs, housing, daycare, and transportation. He noted that \$1 spent on substance abuse treatment could save \$4-\$7 in other costs.

*Substance abuse cost the Commonwealth approximately \$613 million in 2006.*

**John Shinholser, President, McShin Foundation**

SJR 77

*Joint Subcommittee to Study  
Strategies and Models for the  
Prevention & Treatment of Substance Abuse*

**Senator Emmett Hanger, Jr., Chair**

Sarah Stanton, DLS Staff

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[study website](#)

*<http://dls.state.va.us/subabuse.htm>*

Mr. Shinholser described the goals of the McShin Foundation, a nonprofit substance abuse treatment facility in Richmond, and how the foundation works to achieve these goals. He stressed the importance of including persons who have been through the recovery process in substance abuse treatment programs. By way of conclusion, Mr. Shinholser emphasized the need to think clearly about substance abuse treatment and prevention programming, to ensure that the best and most effective programs are in place.

## Next Meeting

The next meeting date will be posted on the committee website and the General Assembly website as soon as information is available.

## HJR 90: Joint Subcommittee Studying Science, Math and Technology Education

**August 13, 2008**

*For the  
past school year,  
there were 160  
science, math,  
and technology  
teaching vacancies  
in Virginia.*

The Joint Subcommittee Studying Science, Math and Technology Education held its first meeting of the 2008 interim in Richmond. Delegate John A. Cosgrove was elected chair and Senator Patricia S. Ticer vice-chair.

## Opening Remarks

Dr. Patricia Wright, the incoming State Superintendent of Public Instruction, addressed the joint subcommittee regarding her vision for science, math, and technology education in the Commonwealth. She described her background and training in mathematics and explained how they strengthened her desire to earn Virginia a spot at the forefront of science, math, and technology education.

Dr. Wright emphasized teacher quality and shed light on a few troubling statistics regarding annual teacher vacancies across the state. This past school year there were 160 science, math, and technology instructor vacancies, which translated into 20,000 students without competent teachers. In addition, there are 1,800 annual vacancies, which is about 11% of the teacher workforce. Finally, Dr. Wright discussed the idea of coherence within the STEM (Science, Technology, Engineering, and Mathematics) subject areas, emphasizing that the content of the subject must be taught, but also the application of that content is very important. It is her aspiration to improve teacher quality and retention while

serving as superintendent and also to move towards solid coherence in the STEM subject areas.

## Overview

Staff provided the members with an overview of the new HJR 90 that continues the work of the two-year HJR 25 (2006) and also expands the scope of the joint subcommittee's work. The new resolution provides five ongoing requirements from HJR 25, including:

- Review of the curriculum of existing public schools.
- Study of accessibility to specialized schools by students throughout Virginia.
- Recommend innovative ways to interest students in science, math, and technology.
- Identify key points during the K-12 education experience that will determine whether a student will become interested, and maintain that interest, in math, science, and technology.
- Examine potential partnerships between public schools, institutions of higher education, and business and research entities.

Among the new directives in HJR 90, the joint subcommittee is required to:

- Ascertain factors contributing to the shortage of science and engineering graduates and recommend alternatives to mitigate the effect of the factors.
- Determine current supply and demand for science and engineering graduates and project the need for the graduates in the next decade.
- Identify incentives designed to attract and retain more students into science and engineering.



Staff also presented a summary of the HJR 25 final legislative recommendations and the outcome of the recommendations during the 2008 Regular Session.

There was a discussion on a study conducted by the Editorial Projects in Education Research Center in which all 50 states were surveyed to "assess the status of K-12 technology across the nation in the areas of access, use, and capacity." Virginia received a ranking of 4th in the nation based on its 2008 technology report card. In addition to technology, the report also addressed STEM education overall and analyzed the states based on the National Assessment of Educational Progress (NAEP) testing in math and science and teacher preparation. Staff pointed out that although Virginia is ranked 37th and 28th for percentage of math teachers and science teachers holding math and science degrees respectively, the ranking does not consider teachers with majors in math or science education.

## Presentations

### **Paula Klonowski, Science Coordinator, Office of Middle & High School Instruction, VDOE**

Paula Klonowski briefed the members on the middle school science education in Virginia. She outlined what is taught at each grade level and when content is tested. Currently, middle school students are given a cumulative SOL assessment covering earth science, life science, and physical science in the eighth grade. A question from the joint subcommittee prompted a discussion about whether some of the underperforming teachers are currently being placed in the 6th and 7th grade science classes as a result of there being no SOL assessment at those grade levels.

### **Dr. Lois Williams, STEM Coordinator, Office of Middle & High School Instruction, VDOE**

Dr. Williams set the stage for two school division presentations on the new Governor's Career and Technical Education Academies that are starting up during the 2008-2009 school year. There will be seven academies beginning this year with six being funded with the National Governor's Association Grant received by the Commonwealth last July. The Loudoun County academy was created solely from local funding. Two more academies are expected by 2009. The academies are intended to provide options for students to acquire knowledge in the STEM fields "that will prepare them for high-demand, high-wage, and high skill careers in Virginia." Courses may be taken at a high school, online, or at a community college. Proposals were required to include a minimum of one institution of higher education, one partner from business and

industry, and one public school division; one of the approved academies has 17 business partners. An academy website is currently in production in order to promote the model for replication across all 132 school divisions. All academies are required to provide:

- Rigorous academic content with career and technical instruction.
- Emphasis on STEM career pathways.
- Individual high school plans for each student.
- Assurance that graduates complete a college and work readiness curriculum.
- Assurance that graduates will qualify for new technical and advanced technical diplomas.
- Virginia's Workplace Readiness Skills.

### **Joe Johnson, Executive Director, New Horizons Regional Education Centers and GAITE**

Joe Johnson gave the members a sense of how the Governor's Academy for Innovation, Technology, and Engineering (GAITE) will operate as a regional and coordinated effort across six school divisions. GAITE courses will focus on engineering with career pathways in electrical engineering technology and mechanical engineering technology because those are the specific employment needs of the Peninsula region. All courses will be offered at divisional high schools, New Horizons, Thomas Nelson Community College, or through distance learning. Although the courses are offered only at the 11th and 12th grade levels, exploration of the subjects will begin in the 7th and 8th grades with "exploratory Saturdays" and with a summer camp in the 9th and 10th grades. Business partners of GAITE include Northrop Grumman and Canon Virginia, Inc. Mr. Johnson agreed with a joint subcommittee member that making tax credits available to businesses willing to support the academies' efforts would be a fantastic payoff.

### **Dr. Melanie Stanley, Director of Academies, & Paul Stapleton, Division Superintendent, Halifax County Public Schools**

Dr. Melanie Stanley and Paul Stapleton presented an overview of the work of the Governor's Career and Technical Academy for Renewable Resources and Agricultural Sciences. It is a comprehensive academy intended to provide students with a focus on agricultural and natural resources disciplines relevant to the area the academy serves. The goals of the academy include providing opportunities to hone skills with experts in agricultural positions, providing opportunities to develop technological skills, and promoting career awareness in agriculture. There

*For the  
2008-2009 school  
year, there will be  
seven Governor's  
Career and  
Technical  
Education  
Academies  
in Virginia.*

is an elementary, middle, and high school component to the academy that will encourage students to explore careers such as marine biology, conservation science, mining and geological engineering, and botany.

## Next Meeting

The joint subcommittee plans to have two more meetings during the 2008 interim. The next meeting date will be posted on the study's website and the General Assembly calendar as soon as information is available.

HJR 90

## Joint Subcommittee Studying Science, Math, and Technology Education

Delegate John Cosgrove, Chairman

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[study website](#)

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

## HJR 91: Joint Subcommittee Studying Ways the Commonwealth May Work with Private, Nonprofit Colleges to Meet Higher Education Needs

August 18, 2008

*The Tuition Assistance Grant Program began in 1972 as an undergraduate loan program.*

The Joint Subcommittee Studying Ways in Which the Commonwealth May Work More Closely with Virginia's Private, Nonprofit Colleges to Meet State Higher Education Needs held its first meeting on August 18, 2008, in Richmond. Delegate Philip A. Hamilton was elected chair and Delegate Franklin P. Hall vice-chair.

## Overview

Staff gave a brief overview of the resolution and the charges of HJR 91. The resolution first provides a few justifications for the subject matter of the study:

- Trends show an increasing demand for enrollment in the Commonwealth's institutions of higher education.
- Virginia's private colleges have existing capacity to enroll more Virginia students and have no financial incentive to enroll out-of-state students.
- The Commonwealth realizes substantial savings in general fund and capital expenditures when Virginia students enroll in a private college.

Staff also highlighted that in accordance with Article VIII, § 11 of the Constitution of Virginia, the Commonwealth can contract with private, nonprofit colleges for educational services. During the two-year study, the joint subcommittee is required to:

- Review the success of the Tuition Assistance Grant Program and develop recommendations to increase the effectiveness and awareness of the program among Virginia families.
- Evaluate current and future higher education enrollment needs and identify ways in which the Commonwealth can partner or enter into contracts with Virginia private colleges to meet these needs.

- Examine the ability of private colleges to provide the technology, equipment, and facilities necessary to serve Virginia students.
- Review publicly supported programs for private higher education in other states and consider the applicability of the programs to Virginia.
- Examine the success of private colleges in educating disadvantaged students and recommend ways in which the Commonwealth can help private colleges continue this important public mission.

## Presentations

### Dr. Daniel LaVista, Executive Director, SCHEV

Dr. LaVista, on behalf of the State Council of Higher Education for Virginia (SCHEV), began with introductory remarks about Virginia's system of higher education. As the 12th largest system in the country, it is made up of public and private, two-year and four-year, and nonprofit and for-profit institutions and include liberal arts, applied, and professional offerings. Dr. LaVista also discussed some background information on Virginia's nonprofit private institutions, including statistics on their Pell Grant recipients vs. Pell Grant recipients at public institutions and statistics on the population of African-American students.

### Lee Andes, Assistant Director for Financial Aid, SCHEV

Lee Andes provided the joint subcommittee with a historical overview of the Tuition Assistance Grant program (TAG), as well as some current enrollment information. TAG began in 1972 as an undergraduate loan program mainly because the Constitution of Virginia restricted aid to students attending private institutions to

the form of a loan. After the Constitution was amended to allow for grants, the program became an exclusively grant-based program. TAG was extended to graduate students in 1984.

In order to participate in the TAG program full-time students must be Virginia domiciles enrolled at a participating private, accredited, nonprofit Virginia institution and in an eligible degree program. The amount of the TAG award varies from year to year, but pursuant to statute, it cannot exceed the annual average appropriation per full-time student for the previous year from the general fund for operating costs at two- and four-year public institutions. Historically, the amount of the award has been consistent in relation to the state tuition subsidy to public institutions and for 2007-2008 the TAG award of \$3,300 amounted to 51.2% of that per student appropriation.

Finally, Mr. Andes concluded with some advantages for the Commonwealth in supporting private education, including the ability for private institutions to play an important role in providing access and diverse academic options.

#### **Tod Massa, Policy Research and Data Warehousing Director, SCHEV**

Tod Massa discussed enrollment trends and projections in Virginia's public institutions of higher education in order for the joint subcommittee to gain some baseline knowledge of possible future needs in enrollment. He emphasized that although generally enrollment projections establish that there is adequate access relative to demand projections, there still needs to be thought given to whether a school will be the right match for a certain student. The data that SCHEV collects is at the macro level and does not indicate, for example, whether there are enough spots within majors or how many students will get their first-choice school. SCHEV does project that the number of high school graduates will peak in 2009 and that there will be modest increases in the number of students likely to enroll in Virginia institutions through 2016. Mr. Massa also mentioned that the ultimate goal of increasing postsecondary participation among high school graduates cannot be achieved by the public institutions alone. For the health of the state's economy, private institutions have an important role as well.

#### **Robert Lambeth, President, Council of Independent Colleges in Virginia**

Robert Lambeth provided the members with an overview of contributions made by private institutions to the Commonwealth, challenges that private institutions are currently facing, and suggestions for possible new ideas for the joint subcommittee to consider over the next two interims. The Council of

Independent Colleges is comprised of 25 nonprofit colleges and over 70,000 students that are equal to over 25% of the total enrollment in Virginia's four-year institutions. Mr. Lambeth discussed the TAG program and emphasized the efficiencies that result to the state from a student attending a private institution—currently it costs the state \$8,062 per student attending a public institution vs. \$3,200 per student attending a private institution under the TAG program. He encouraged the joint subcommittee to consider enhancing the TAG program, which has not been amended since the 1970s. While in 1999, the grant covered 29.3% of the tuition gap between public and private school tuition, it now only covers about 19.9%.

The members also heard about the variety of challenges facing private institutions including funding deficiencies for campus safety, technology and equipment, financial aid, capital projects, faculty salaries and health insurance. Mr. Lambeth contends that since those items are subsidized to a certain extent at state institutions it is becoming increasingly difficult for private institutions to compete for faculty and students. He underscored the need for exploration into the re-balancing of private and public institutions at the state level. Mr. Lambeth suggested possible future meeting topics and offered to assist in the work of the joint subcommittee to find the most effective balance between private and public institutions in the Commonwealth.

## **Next Meeting**

The chairman requested staff to generate a two-year work plan. Presentations will be given on the work plan, information on publicly supported programs in higher education in other states, and possibly a closer look at capital support and/or capital needs of nonprofit private institutions. The date of the next meeting will be posted on the study website and General Assembly calendar as soon as it is available.

HJR 91

*Joint Subcommittee Studying Ways the  
Commonwealth May Work More Closely  
with Virginia's Private, Nonprofit College to  
Meet Higher Education Needs*

Delegate Philip Hamilton, Chairman

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[study website](http://dls.state.va.us/nonprofitedu.htm)

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

Virginia has  
the 12th  
largest system  
of higher  
education  
in the  
country.

# HJR 248: Joint Subcommittee Studying Biosciences & Biotechnology

August 19, 2008

Three areas designated as focus areas in which Virginia can become a national leader are life sciences, energy and environment, and microelectronics.

The Joint Subcommittee Studying Biosciences and Biotechnology in the Commonwealth held its first meeting in Richmond. Delegate Mark Sickles was elected chair and Senator Janet Howell vice-chair.

## Overview

Staff provided a brief overview of biotechnology and the resolution creating the joint subcommittee. Biosciences and biotechnology are relevant to a number of different types of research and industries that are prominent in the Commonwealth. Three areas designated by the Virginia Research and Technology Advisory Commission as focus areas in which Virginia can become a national leader include:

- Life sciences
- Energy and environment
- Microelectronics

The joint subcommittee is tasked with reviewing and building upon the recommendations made by Governor Mark Warner's Biotechnology Commission. The resolution sets forth 11 specific areas of inquiry and directs the joint subcommittee to include the participation of agricultural and tobacco interests, federal laboratories in Virginia, and not-for-profit life science and research institutions.

## Presentations

### **Patrick Kelly, Vice President, State & Government Relations, Biotechnology Industry Organization**

Patrick Kelly provided the members with a national perspective on where Virginia stands in relation to the other 49 states in its bioscience efforts. He distributed copies of a recently released report entitled "State Bioscience Initiatives 2008." This report looks at state-level indicators of the performance of the bioscience sector in each state, such as research and development awards, venture capital, patents, and degrees awarded in the biosciences.

Mr. Kelly indicated that while Virginia did not fall into the top 10 of any of the indicators, the state is soundly in the top 20 in bioscience performance. However, Virginia's neighbors North Carolina and Maryland frequently outperform the Commonwealth in many of the

analyses. A PowerPoint presentation outlining Mr. Kelly's remarks is available on the study website.

### **Michael Schewel, Secretary of Commerce & Trade and Co-chair of the Commission on Biotechnology under Gov. Warner**

Michael Schewel provided an overview of the work and recommendations of the Commission on Biotechnology, which met from 2002 to 2005, and that issued two reports. The first report provided recommendations for initial steps and leadership strategies, and the second included specific budget recommendations for the 2007-2008 budget.

The recommendations of the Commission were based on five key premises:

- Biotechnology industry is growing rapidly.
- Biotechnology provides many opportunities for economic development.
- Biotechnology industry must develop close relationships with research and development entities such as universities, federal labs, and nonprofit research groups.
- Availability of venture capital is vital.
- Competition in the biotechnology sector among not only the 50 states, but also among many nations, is intense and will continue to increase.

Mr. Schewel said that nothing has changed since the issuing of the report to alter these premises and that the biotechnology industry has grown even more rapidly than anticipated.

The Commission's recommendations focus on those areas where the government could make a difference, or be more effective than the private sector, in encouraging the growth of biotechnology in the Commonwealth.

The Commission's first recommendation centers on the development of facilities with wet lab space to attract start-up companies. Mr. Schewel said that the state was uniquely positioned to provide its credit for building these facilities, as many start-ups do not have the kind of credit necessary to build these facilities. In addition, the state is positioned to benefit not only from rent on the facilities, but also to recognize increased tax revenues as a return on investment. The second recommendation was to enhance the commercialization activities of universities. The Commission found that commercialization activities or the process needed to convert research and development into a marketable product were not funded nearly to the extent as basic research and development. Third, the Commission recommended the creation of partnerships between the biosciences and the information technology community, such as



the creation of the bioinformatics center at Virginia Tech. Finally, the Commission recommended the mobilization of available venture capital.

Mr. Schewel said that in his opinion, these recommendations were still worthy of the joint subcommittee's consideration. He said there were ways to think creatively about the recommendations, even in a time of tight budgets.

Mr. Schewel closed his remarks with the caveat that one thing the Commission could have done better was to work more closely with the legislature in promoting its recommendations. He said that the Commission did not work enough to enable the legislature to understand efforts to promote biotechnology by Maryland and North Carolina. In hindsight, the Commission should have worked harder to build a case for recommendations that the General Assembly could support and adopt.

## Work Plan & Next Meeting

The joint subcommittee will focus its efforts on reviewing and discussing the Commission report and prioritizing recommendations to be made to the 2009 General Assembly. Topics for the next meeting will include:

- Review legislative efforts in other states relating to biotechnology.
- Assess the current research and development work at universities in the Commonwealth dedicated to biotechnology.
- Report on current initiatives in the Commonwealth that, while perhaps not biotech-specific, can still be used to support the industry such as the Commonwealth Technology Research Fund.

It was also suggested that a future meeting be held in conjunction with the Mid-Atlantic Biotech Conference in Chantilly in October.

HJR 248

### *Joint Subcommittee Studying Biosciences and Biotechnology in the Commonwealth*

Delegate Philip Hamilton, Chairman

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[study website](#)

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

*North Carolina  
and Maryland  
frequently  
outperform  
Virginia in  
many analyses  
of bioscience  
performance  
indicators.*

## SJR 223: Joint Subcommittee on Block Grants

### August 19, 2008

The Joint Subcommittee on Block Grants held its biennial public hearing on the Community Services Block Grant federal application with Senator Charles Colgan as chair. The joint subcommittee was established in 1993 as a mechanism for holding legislative hearings on applications for federal block grants, as necessary. For at least 20 years, certain federal legislation required that legislative public hearings be held on certain block grants. In Virginia, a Joint Subcommittee on Block Grants has, since 1982, held one inclusive hearing subsuming the grants requiring "legislative" public hearings, as needed on an annual or, currently, biennial basis. For some years, three different grants required legislative public hearings; however, since 1993, the Community Services Block Grant has been the joint subcommittee's only responsibility.

The Community Services Block Grant is administered by the Department of Social Services and is submitted as a narrative plan in compliance with Title VI, Subtitle B, of the Omnibus Budget Reconciliation Act of 1981, as amended by various provisions, including the 1998 Community Action Block Grant Act (42 U.S.C. 9901 et seq.).

On a daily basis, Virginia's community action agencies or CAAs provide a wide range of programs for low-income people designed to assist them in becoming self-sufficient, including:

- Job training and skills development
- Micro-enterprises
- Childcare
- Head Start programs
- Motivation for young people to attend college and adult literacy and GED
- Housing
- Transportation
- Homeless services
- Emergency services
- Water and waste water facility development

The chairman reminded the joint subcommittee that the purpose of the meeting was to hear from residents who have benefited from the Community Services Block Grant funds in order for the members to vote on approval of the Department of Social Services state plan for the next two-year grant cycle. Staff also provided a brief history of the Joint Subcommittee on Block Grants.

Virginia  
administers block  
grant funds  
through a  
cooperative effort  
between local  
community action  
agencies, the  
Virginia  
Community  
Action  
Partnership, and  
the state agency.

## Presentations

### **Jack Frazier, Director of Community and Volunteer Services, Dept of Social Services**

Jack Frazier explained that the state plan details how the department allocated the block grant funds among the 26 local community action agencies and three statewide nonprofit organizations, as well as what types of programs are offered through these agencies. He also told the joint subcommittee that at this time the exact amount of the federal allocation is uncertain, but if it remains at last year's level the total contract amount from the department to the agencies will be just over \$16 million—a combination of federal block grant funds, state funds, and federal TANF, Temporary Assistance to Needy Families, funds. The agencies have a total budget of \$135 million and serve over 100,000 people in Virginia.

Mr. Frazier mentioned that the Commonwealth is unique in administration of the block grant funds. Most states have one state agency that administers the grant, whereas Virginia administers it through a cooperative effort between local community action agencies, the Virginia Community Action Partnership, or VACAP, and the state agency. He explained how these groups work together, using the recent earned income tax credit initiative as an example, and stated how this is one of the most successful partnerships in the country.

### **Jim Schuyler, Executive Director, Virginia Community Action Partnership**

Jim Schuyler of VACAP emphasized both the state/local partnership and the public/private partnerships involved in administering grant programs. He said that one of his main concerns is that there are jurisdictions in Virginia that are not being served. Virginia is currently one of only three states without statewide coverage. Expanding coverage to unserved areas of the Commonwealth is now a main focus of the organization. Mr. Schuyler mentioned that it is the 40th anniversary of the community action network, and he urged the joint subcommittee to approve the state plan so that the network can continue its important mission.

## Public Comment

The joint subcommittee heard from several speakers who have been helped by community action agencies.

The first speaker, an elderly woman who is a participant in the Richmond Community Action Program's East Senior Center, gave a moving presentation about how outreach workers came to her apartment after she had gone blind and no longer wanted to live. They assisted her in getting a cane and training, so she could venture out in public again. She then became very active in the center and found new meaning in life. She spoke appreciatively of all the activities offered and said that without the center she would probably be in a nursing home. The members were very moved and expressed their thanks for a heartfelt presentation.

Mr. Ayers of the Board of Directors of Project Discovery in Salem, an anti drop-out program, spoke about the program's successes. He explained that the program works with 4th through 12th graders, trying to get them through school and on to higher education. The program assists students in researching colleges, applying for financial aid, setting goals, life planning, and learning study skills. The program also involves students in community service projects. In 2007 the program had 446 high school graduates, of which 88% went on to postsecondary schools, 10% entered the workforce, 1% went into the military, and 1% fell into the "other" category.

Anthony West, Program/Training Director of the Virginia Community Action Re-Entry System, spoke next on the only statewide pre- and post-incarceration program. Mr. West emphasized the organization's role in increasing public safety by reducing prisoner recidivism rates. He spoke about using prerelease services to change the mindsets of prisoners, in order to prevent them from returning to the same people and places that led to their original arrests. The postrelease services, which include employment assistance, food and clothing, peer support, substance abuse treatment, and individual case-management offer people a chance to follow through on prerelease plans and start anew.

Next was a citizen from Northern Virginia who came to ask the subcommittee to consider using block grant funds to provide housing services to homeless veterans. He explained that he became aware of this need through personal research for a master's degree and asked the joint subcommittee's help in funding services.

The members agreed that this was an important issue, and the chairman made a motion to ask the Department of Social Services to further examine this need to see if the block grant funds could be used for this purpose. Senator Martin then amended the motion to also ask the House Appropriations and Senate Finance Committees to also look into this important issue. The motion passed unanimously.

Mary Terry, President of the Southeast Rural Community Assistance Project, Inc., spoke about recent budget cuts and how the cuts have affected the services offered, including the wastewater and safe drinking water program, which helps people to install indoor plumbing where it is currently lacking.

After the public hearing, the joint subcommittee members discussed the variety of programs supported by the Community Services Block Grant. The joint subcommittee voted unanimously to endorse the current block grant application.

SJR 223

### *Standing Joint Subcommittee on Block Grants*

Senator Charles Colgan, Chairman

Jessica Eades, DLS Staff

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*Standing joint  
subcommittee  
members approved  
current block  
grants to help  
Virginia's low-  
income  
population.*

## From DLS's Privileges & Elections Section - *Did You Know?*

**"Did You Know?" will appear in each issue of the *Virginia Legislative Record*. The article will feature important topics or interesting facts relevant to the Virginia legislature. For general questions or issue suggestions, please contact Tomi Dechant at (804)786-3591 or [tdechant@leg.state.va.us](mailto:tdechant@leg.state.va.us).**

### Filling Vacancies of Elected Officials

When speculation flourished about the possibility of Governor Tim Kaine running for Vice President, questions surfaced about the filling of vacancies in the three elected state offices.

First, if the Governor were to resign to serve as Vice President, the Lieutenant Governor would become Governor. (Virginia Constitution, Article V, Section 16) The succession would take place when the Governor resigns and the vacancy occurs.

Second, if the Lieutenant Governor becomes Governor, there would be a vacancy in the office of Lieutenant Governor. When that vacancy occurs, § 24.2-212 of the Code of Virginia states that the President pro tempore of the Senate will discharge the duties of that office but retain his right to vote as a member of the Senate.

Until 1973, predecessor versions of § 24.2-212 provided that a special election would be held to fill a vacancy in the office. In 1971, Henry Howell won a special election to fill the unexpired term of J. Sargeant Reynolds who had died June 13 in that year. Lieutenant Governor Howell served the unexpired term until January 1974.

In 1973, the General Assembly amended the predecessor of § 24.2-212 to strike the provision for a

special election to fill a vacancy in the office of Lieutenant Governor. However, Article V, Section 7 of the Virginia Constitution gives the Governor power to fill vacancies in offices when "the Constitution and laws make no other provision." Since the Constitution and laws now make no provision for filling the office of the Lieutenant Governor, Section 7 would allow the Governor to fill the vacancy. When the office in question is elected by the people, the Governor's appointee holds office until the next general election and the qualification of his successor. The Governor has discretion whether or not to use this power.

Third, a vacancy in the office of Attorney General is filled pursuant to § 24.2-213 of the Code of Virginia. If the vacancy occurs while the General Assembly is in session, the vacancy is filled by a majority of the total membership or 71 or more votes. If the vacancy occurs when the General Assembly is not in session, the Governor appoints a person to fill the vacancy who serves the balance of the term or until 30 days after the beginning of the next session, whichever happens first. Most recently, the General Assembly elected Judith Jagdmann on February 1, 2005, to fill the remainder of Jerry Kilgore's term when he resigned to run for governor.

*- Mary Spain, DLS Senior Attorney*

## COMMISSIONS AND COUNCILS

Legislative Commissions and Advisory Councils are also staffed or monitored by Division of Legislative Services and some, such as FOIA and JCOTS and others that are featured in the Legislative Record, have independent, comprehensive websites that contain a wealth of information regarding research, proposed legislation, and ongoing activities and scheduled workshops. Be sure to visit each respective Commission and Council website for more detailed information.

### Freedom of Information Advisory Council *8-5-2008*

The third meeting of the Freedom of Information Advisory Council was held at the General Assembly Building in Richmond. Delegate Morgan Griffith was elected chair and Senator Edward Houck as vice-chair. Two new Council members were welcomed, Forrest M. "Frosty" Landon and John G. Selph.

### Subcommittee Reports

#### Personal Identifying Information

Staff reported that the Personal Identifying Information Subcommittee (PII Subcommittee) met to continue its work regarding social security numbers (SSNs) and other personal identifying information. The meeting began as a joint meeting with the Joint Commission on Technology and Science Subcommittee Studying SSNs.

The joint subcommittee received a presentation from Richard Varn, CIO of the City of San Antonio, Texas, and Executive Director of the Coalition for Sensible Public Records Access. Mr. Varn focused on the value of strengthened authentication procedures and heightened penalties for misuse as better approaches to prevent identity theft rather than redaction of SSNs or limitations on the use of SSNs. He emphasized that SSNs are already widely available in existing records, making redaction impractical and expensive, and that the majority of current identity theft crimes do not use SSNs at all.

The members heard an update on the survey regarding the collection of SSNs by state agencies, cities, counties, and certain towns, as mandated by SB 132/HB 634 (2008). The responses to the survey forms and instructions sent out to the affected parties have indicated that the survey process has already revealed valuable information to the affected public bodies about their own practices in regard to the collection of SSNs, including instances where SSNs may not need to be collected.

The joint subcommittee also considered four bills—HB 1087, HB 1088, HB 1096, and HB 1102—concerning the protection of SSNs that were referred by the General Assembly during its 2008 Regular Session. The joint subcommittee deferred any action regarding these bills, indicating that it wants to hear first about other states'

experiences in regard to laws allowing access and use of partial SSNs, and a report from the Department of Motor Vehicles regarding the federal Real ID requirements and their implementation in Virginia.

The PII Subcommittee separately, without the JCOTS Subcommittee, considered SB 529 that concerns access to concealed carry handgun permits. The members will further study this matter before taking action.

#### Electronic Meetings

Staff reported that the Electronic Meetings Subcommittee had met to discuss changes made by the 2008 Session of the General Assembly in HB 1332/SB 423 that would allow members of the State Air Pollution Control Board and the State Water Control Water Board to meet via teleconference under certain circumstances during the process of issuing permits. Certain provisions in the bills conflict with the electronic meetings requirements of FOIA. At its last meeting, the subcommittee agreed to a partial draft that addressed some of the issues raised, but did not want to bring it before the full Council until the draft is complete. Senator Houck will serve as acting chair of the subcommittee meeting on August 5, 2008. Craig Fifer will chair future meetings.

#### Other Business

Staff reported receiving inquiries from both citizens and state agencies regarding the requirements of § 2.2-3704 J of the Code of Virginia, which requires public bodies to maintain an index of computer databases. It appears there may be confusion about what this subsection requires and practical difficulties in meeting those requirements. This provision was intended to address issues that arose when agencies first began switching from paper records to electronic databases, and was intended to provide a means for citizens to see what type of records were kept by each agency.

Tom Falat of the Virginia Information Technologies Agency (VITA) indicated that VITA was willing to work with the Library of Virginia and the FOIA Council on this issue. Additionally, he stated that VITA's audit requirements include relevant definitions and reporting requirements for listing databases for security purposes. While VITA's security interests are likely different from the FOIA interest in providing citizen access to public records, it may be helpful to see if and how these different database provisions might overlap and be made consistent with each other. In order to



further study this matter, the Council established a subcommittee consisting of members Landon (chair), Axselle, and Spencer.

Staff also raised the issue of public bodies using new technologies such as BoardDocs to record their meetings, and consequently not producing written minutes. The BoardDocs technology appears to allow the publication online of navigable audio recordings of meetings with attached document links. FOIA itself speaks to the minimum contents of meeting minutes, but is silent regarding whether minutes must be written or in any particular format.

Several Council members expressed the view that written minutes are the traditional and best form for historical and archival purposes, and that other technological formats are often rendered obsolete by newer formats. Council members also expressed that having a summary and the ability to quickly navigate through minutes are helpful tools to improve citizen access by obviating the need to listen to an entire recording in order to find a particular topic of interest. Council members also observed that there is wide variety in the way minutes are kept by different public bodies. The Council also had questions about the practical use of technologies such as BoardDocs, and suggested that staff arrange a presentation from a public body that has actual experience with BoardDocs. To further study these issues, the Council established a subcommittee consisting of members Wiley (chair), Malveaux, Selph, and Miller.

## Next Meeting

The next meeting of the Council is scheduled to be held on October 6, 2008, in Richmond.



**Virginia Freedom of Information  
Advisory Council**

## THE HONORABLE H. MORGAN GRIFFITH, CHAIR

**Maria J.K. Everett, Executive Director**  
**Alan Gernhardt, DLS Staff**

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## Coal and Energy Commission 8-7-2008

The Coal and Energy Commission held its first meeting of the 2008 interim at the Wytheville Meeting Center.

### Presentations

#### **Gerald Spraker, President, Wythe County Farm Bureau**

Gerald Spraker spoke to the Commission about the promise of biodiesel production for use in county vehicle fleets such as school buses. Biodiesel has several key advantages over traditional fuels including improved air quality, lower costs, and energy independence. After reviewing potential impacts of switching to biodiesel, Mr. Spraker took the Commission step-by-step through the relatively simple process of converting waste vegetable oil to biodiesel fuel suitable for powering existing vehicles at roughly \$1.00/gallon. Mr. Spraker encouraged the Commission to provide Wythe County and other localities in the Commonwealth with the political and financial resources to convert school buses from traditional diesel to biodiesel.

#### **Stephen Walz, Senior Advisor to the Governor on Energy**

Stephen Walz provided the Commission with an overview of progress made towards implementing the recommendations of the Virginia Energy Plan. In energy efficiency, utilities have begun various pilots and programs to meet a goal set in 2007 to reduce the consumption of electricity by 10%. Additionally, the General Assembly passed legislation during the 2008 Session to decouple natural gas rates and remove the disincentive for utilities to reduce demand. Net metering legislation has furthermore resulted in the purchase of more than 400kW from consumer-producers. Mr. Walz stated that the Energy Star sales tax holiday will be expanded to WaterSense products this fall. In many ways, state and local governments are leading by example through standards for telework and energy management.

A number of improvements have been made to the energy supply and infrastructure system in the Commonwealth. The air emissions permit for the Virginia City Power Plant has progressed, as have various permits for new biodiesel plants and wind projects. New transmission lines have been added and more are planned. Construction for the HRX pipeline has begun and the capacity of the refinery at Yorktown should be increased. A plan has been put in place to burn switchgrass as a feedstock for fuel and heat at the Piedmont Geriatric Hospital. Mr. Walz also reviewed a number of events that serve to heighten awareness about energy across the Commonwealth. A number of commissions and research entities are addressing energy issues of the future including the Governor's Commission on Climate Change.

Senator Wampler questioned whether smart meters, which allow homeowners to manage their electricity consumption, will be used by homeowners in the Commonwealth. Mr. Martin, a member of the Commission and Senior Vice President for Business Development and Generation Construction at Dominion Resources, noted that Dominion plans to distribute 200,000 smart meters as part of a move towards smart grid technology. Mr. Walz added that, in addition to educating consumers, it was critical to educate other industry participants such as installers, contractors, and retailers.

Mr. Walz was also asked to elaborate on the role of nuclear energy and questioned whether the Coal and Energy Commission or the executive branch has the independent authority to study the feasibility of uranium mining in the Commonwealth. Mr. Walz responded that the administration would work with the Coal and Energy Commission to determine whether a study might move forward with the agreement of all parties.

**James Martin, Senior Vice President,  
Dominion Resources**

James Martin began his presentation by pointing out that the future demand for electricity in Virginia requires an additional 4,000 MW over the next nine years, which will be met by the development of additional generation and advancing conservation efforts. New generation projects will reflect a diversified strategy of infrastructure development including clean coal, advanced nuclear, natural gas, biomass, and transmission upgrades. Conservation efforts are predicted to save \$1 billion over the next 15 years. Dominion supports the goal that 12% of power supply will come from renewable resources by 2022 and expects to deploy 750 MW of wind power.

**R. Daniel Carson, Jr., Vice President,  
Appalachian Power Company**

Daniel Carson noted that AEP owns 310 MW of wind capacity and has long-term power purchase agreements with wind producers totaling 467 MW. Hydroelectric capacity in Appalachian's region is almost 800 MW. As a result, AEP expects to meet the goal set by the General Assembly two years ago that 12% of power supply come from renewable resources by 2022. Additionally, AEP has asked that the State Corporation Commission approve a "green" tariff that allows retail customers to designate renewable energy for their monthly electricity needs.

**Dr. Michael Karmis, Director of the Virginia  
Center for Coal & Energy Research**

Michael Karmis gave the Commission an overview of work being done at the Center to advance carbon capture and sequestration. Initial tests of carbon capture technology will begin shortly, but a large volume test is

needed. Dr. Karmis notes that Virginia is fortunate to have geologic formations that are suitable to store carbon and that policy makers should view the formations as a natural resource. Large volume tests are essential to prove the value of these resources to investors. The Department of Energy will provide \$65 million towards the large volume tests, leaving an additional \$40 million in cost share commitment to be raised from other sources in the next few months. Dr. Karmis stressed the urgency and importance of identifying these funds for the project so that the Commonwealth will not lose its competitive advantage. Senator Wampler questioned the role of Virginia Tech to fund coal and energy research.

Mr. Martin returned to update the Commission on the progress of the Virginia City Hybrid Energy Center and the possibility of adding a third nuclear reactor to the North Anna Power Station. The Air Pollution Control Board recently approved a permit that includes numerous emissions controls including limestone injection, flue gas scrubbers, low-temperature combustion, SNCR, fabric filter "baghouse," and activated carbon injection. The permit requires that the plant burn at least 5.0% biomass after three years, an amount that will eventually increase 10%. Dominion will also convert the coal-burning plant at Bremo to natural gas. Dominion also has proposed a third unit at North Anna that would provide 1,500 MW of new electricity—enough to power 375,000 homes. The reactor could potentially be in service as early as 2016. Dominion awaits contract negotiations with GE for the reactor and a Certificate of Public Convenience and Necessity from the State Corporation Commission.

## Next Meeting

The date of the next meeting will be posted on the Coal and Energy Commission's website and the General Assembly calendar as soon as the information is available.

## Coal and Energy Commission

### THE HONORABLE TERRY GILGORE, CHAIR

*Ellen Porter, DLS Staff*

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

## Small Business Commission

8-12-2008

### Overview

The Small Business Commission met in Richmond. Delegate Jeffrey M. Frederick and Senator W. Roscoe Reynolds were elected co-chairmen. Delegate Frederick gave brief opening remarks on the Commission's role: reporting and making recommendations on issues of concern to small businesses in the Commonwealth.

### House Bill 352

House Bill 352, concerning motor carriers and liability insurance for buses with capacity of no more than 40 passengers, was passed by in the House Committee on Transportation during the 2008 Session of the General Assembly and the bill was forwarded by letter to the Commission for further study. Delegate Mark L. Cole, the bill's patron, and Butch Wimmer, the owner and operator of Trolley Tours of Fredericksburg, presented the bill to the Commission. Delegate Cole explained that the bill would permit the operators of certain intrastate buses that provide sightseeing and transportation services for tourists to maintain liability insurance on the buses in the amount of \$1,500,000, instead of the \$5,000,000 currently required by the Virginia Code.

The primary focus of the bill was on companies that operate sightseeing buses designed to resemble trolleys or streetcars. Delegate Cole noted that he had introduced an alternate version of this bill, House Bill 1110, which limited the reduced amount of liability insurance to trolleys and specifically defined that term. Mr. Wimmer, whose business operates trolleys, stated that the cost associated with the higher liability amount is the driving factor behind the bill. Mr. Wimmer noted that in the past 15 years he has paid over \$200,000 in premiums, and only \$6,000 has been paid out in claims by his insurers. Additionally, the lesser liability amount would reduce his insurance premium from \$17,500 to approximately \$10,000 per year.

The Commission also heard from Robert Bradshaw of the Independent Insurance Agents of Virginia. Mr. Bradshaw expressed concerns that as written, House Bill 352 would apply broadly to many types of passenger vehicles and buses, and would not be limited to sightseeing trolleys. Mr. Bradshaw indicated that his organization would not be opposed to the bill if it were so limited and expressed his preference for House Bill 1110.

Lynwood Butner of the Department of Motor Vehicles also spoke to the Commission. Mr. Butner noted that the current liability insurance amounts for intrastate motor carriers match the federal law for interstate carriers. He stated that the current federal liability insurance amounts

were set in 1985. In 2000, a Financial Responsibility Study for motor carriers was conducted in Virginia and, as a result of that study, Virginia law with regard to intrastate motor carriers was amended to match the federal law in 2001.

The Commission expressed concerns regarding the potential broad application of the bill, and some support was expressed for a version with the definition of a trolley contained in House Bill 1110. The Commission also discussed other ways to limit the scope of the bill, including imposing speed limitations and geographic limitations on the operation of such buses and requiring the disclosure of the liability insurance limitations to the passengers. The Commission asked Delegate Cole to meet with the relevant stakeholders and prepare a new proposal to be revisited at a future meeting.

### Health Insurance Bills from the 2008 Session

The Commission then considered several bills that had been introduced during the 2008 Session of the General Assembly, but did not pass, relating to health insurance and small businesses.

The first of these bills was House Bill 1497, which bill was presented to the Commission by its patron, Delegate Daniel W. Marshall, III. The bill is identical to House Bill 807, which was introduced by Delegate David L. Englin. Delegate Marshall explained that the bill would create a new position, a Small Business Health Insurance Pool Advisor, in the Office of the Secretary of Health and Human Resources with the goal that this advisor would be able to assist members of the small business community with the creation and maintenance of health insurance pools. Delegate Marshall noted that laws permitting the insurance pools have already been enacted.

Members expressed some concerns about the efficacy of health insurance pools in the long run. There was also a suggestion that scope of the advisor position be expanded to cover all health insurance options, and not just health insurance pools. The Commission further recommended that the Secretary of Health and Human Resources be contacted to determine what could be accomplished without the creation of the new position and that some method of generating the funds needed to pay for the new position be explored.

The second bill was House Bill 59. Co-chairman Frederick, patron of the bill, explained that the bill would offer a tax credit for health insurance premiums paid by certain small businesses for their employees. In order to be eligible for the credit, the employer must pay at least one-half of the insurance premium and the amount of the credit is capped at \$500 per employee per year. Co-chairman Frederick noted that he had

introduced similar bills in the past and was aware that the credit proposed may be cost prohibitive. The Department of Taxation concluded that the bill may result in an annual revenue loss ranging between \$99 million to \$170 million, although it ultimately concluded that the actual loss was unknown. Co-chairman Frederick also noted that similar tax credits have been enacted in other states.

Members questioned whether the credit would actually serve as enough of an incentive to small business employers when it is capped at \$500 per employee per year when an employer's premium could be \$400 per employee per month. Members of the Commission also questioned whether there would be a more effective way to use the money that would go to the tax credit.

The third bill presented to the Commission was House Bill 1191. Similar to House Bill 59, the bill would offer a tax credit for long-term care insurance premiums paid by certain small businesses for their employees. In order to be eligible for the credit, the employer must pay the full insurance premium and the amount of the credit is capped at 20% of the amount paid per employee per year. Staff noted that individuals are permitted under Virginia law to take a tax credit for premiums paid for long-term care insurance. The Department of Taxation concluded that the revenue impact of the bill was unknown but would likely be less than \$100,000 per year.

## Health Insurance Issues Facing Small Businesses

### **Holly Wade, National Federation of Independent Business**

Holly Wade presented the Commission with an overview of the concerns of small businesses regarding the cost of health insurance. The NFIB had recently completed a survey of its members and received 3,500 responses for a response rate of 18%. Ms. Wade stated that the number one issue for small businesses is health insurance and has been so since 1984. She also noted that between the years of 1999 and 2007, health insurance premiums have increased by 129%, which is three times the rate of inflation or the rate earnings have increased. While this rate of increase has slowed recently, Ms. Wade explained that this slowdown may be the result of employers dropping health insurance and new businesses not offering insurance in the first place.

In response to a question from the Commission about health savings accounts, Ms. Wade noted that health savings accounts may be an option for small businesses, but that there is a lack of available information. She noted that insurance agents or brokers frequently do not discuss health savings accounts as an insurance option and the small businesses must raise the issue themselves. Ms. Wade also noted that although the cost per individual paid by large and small businesses is approximately the same, employees at small businesses get less insurance coverage for the amount paid.

## Public Comment

The Commission then invited public comment. Mr. Mark Pratt of Anthem Blue Cross and Blue Shield briefly spoke regarding general issues related to the cost of health insurance. Mr. Pratt noted that 80% of premiums paid go to reimburse physicians and other medical providers for services rendered. Mr. Pratt also noted that between the years of 1998 and 2000, 15 new insurance mandates were added to the Virginia Code.

## Work Plan

The members engaged in a general discussion about the role and focus of the Commission and what issues should be studied in the future. Some members suggested that the Commission should be more involved in the legislative process and that it should attempt to monitor and comment on bills introduced during subsequent sessions of the General Assembly. Members also suggested that the Commission should monitor new regulations that affect small businesses.

The Commission determined that its immediate focus should be on the cost and availability of health insurance for small businesses. The Commission agreed that its next meeting would be primarily a working session on this topic. The Commission plans to invite representatives from other Virginia governmental entities that have also considered this issue, as well as representatives from private organizations, to participate in this working session with the goal of building on the experience of these other entities as the Commission goes forward. The Commission also directed staff to research how other states have responded to the issue of health insurance and small businesses.

## Next Meeting

The next meeting date will be posted on the Commission website and the General Assembly calendar as soon as information is available.

### **Small Business Commission**

**DELEGATE JEFFREY M. FREDERICK, CHAIR**  
**SENATOR W. ROSCOE REYNOLDS, CHAIR**

**David Cotter, DLS Staff**

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# **JCOTS**

## **Open Education Subcommittee 8-12-2008**

### **Creative Commons Licensing**

Staff provided a brief review of Creative Commons licensing as an option for authors of educational content. A quick reference guide was distributed to members of the subcommittee and is available, as well as all other materials from the meeting, on the JCOTS website at <http://jcots.state.va.us>.

### **Presentations**

#### **Aneesh Chopra, Secretary of Technology**

Secretary Chopra reviewed several ongoing initiatives in the Commonwealth that compliment the efforts of the subcommittee to promote expanded access to free and low cost teaching materials to citizens of the Commonwealth. Secretary Chopra also briefed the committee on his work to establish a partnership with CK-12 to encourage teachers to share educational content using an online platform. CK-12 is a nonprofit organization located in Palo Alto, CA working on creating flexbooks or customized content for high school students using open source and content. Secretary Chopra also informed the subcommittee that six Governor's Academies would be starting this fall thanks to funding provided through the National Governor's Association. The academies are joint efforts of school districts and businesses and are approved based on specific curriculum requirements. One additional academy is currently applying for designation despite not receiving an NGA grant.

#### **Stewart Smith, Education Specialist, Community Idea Stations**

Stewart Smith presented the e-Klips program initiated by Community Idea Stations. The e-Klips program is an online resource that teachers and members of the public can use to access audio and video media for use in the classroom. The subcommittee expressed interest in learning more about the types of copyrights placed on the media. Mr. Smith said the company is currently working on what type of copyrights they would like to place on the materials. He also distributed a handout with future funding needs if Community Idea Stations were to provide access to all of its materials through e-Klips.

#### **Dr. Richard Baraniuk, Founder, Connexions**

Dr. Baraniuk presented on the Connexions program for organizing open education content using a web-based platform. Connexions is an environment for collaboratively developing, freely sharing, and rapidly publishing scholarly content on the Web. One of the topics that interested the subcommittee was the partnership Connexions formed with a print-on-demand company that holds a reverse auction when a

user requests a printed copy of materials on the Connexions website.

#### **Kirk Schroder, Pearson Education**

Kirk Schroder introduced two executives from Pearson who provided an overview of Pearson's efforts to customize content for each of the 50 states. One thing that makes customization difficult is the specific education requirements of each state, which requires very close attention to detail. Another difficulty in customization is that once a textbook is adopted and purchased by a locality, Pearson is unable to update obsolete content (e.g. Pluto no longer being a planet) because there is currently no process that allows for the adoption of specific content, only textbooks in their entirety. Despite these challenges, Pearson has developed several computer-based learning tools with innovative content delivery. Additionally, Pearson discussed its plans to break educational content into over 1,100 modules, which would allow teachers to pick and choose the chapters they would like in a text book. One member of the subcommittee asked if local school boards would be able to mix these modules with other modules, perhaps from open sources or another publisher, and the response was "no."

### **Next Meeting**

The next meeting date will be posted on the Commission's website and General Assembly calendar as soon as the information is available.



#### **DELEGATE JOE MAY, CHAIR**

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or other DLS publications, please  
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## **REGULATORY ALERT**

### **A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH**

The Regulatory Alert is intended to assist General Assembly members as they keep up with the myriad regulations being proposed by agencies in the Commonwealth. The goal of this project is to provide a timely, simple, and accurate summary of the rules that are being proposed by agencies, boards, and commissions. Highlighting regulations when they are published as "proposed regulations" gives General Assembly members notice that the critical public participation phase of the rulemaking process is well underway. It is during the public participation process that the questions of an Assembly member or constituent may be most effectively communicated to the agency and examined by the individuals crafting the regulatory proposal.

The Regulatory Alert is not intended to be a substitute for the comprehensive information on agency rulemaking activity that is currently published biweekly in the *Virginia Register of Regulations* or the notification services offered by the Regulatory Town Hall website maintained by the Department of Planning and Budget. It is hoped that the Legislative Record will assist all members as they monitor the development, modification, and repeal of administrative rules in the Commonwealth. Access the *Virginia Register of Regulations* online at <http://legis.state.va.us/codecomm/register/regindex.htm> or contact [epalen@leg.state.va.us](mailto:epalen@leg.state.va.us) or the Code Commission staff at (804) 786-3591 for further information.

### **TITLE 3. ALCOHOLIC BEVERAGES**

#### **ALCOHOLIC BEVERAGE CONTROL BOARD**

##### **Proposed Regulation**

**3VAC5-50. Retail Operations (amending 3VAC5-50-40, 3VAC5-50-50, 3VAC5-50-80, 3VAC5-50-100, 3VAC5-50-130, 3VAC5-50-140).**

A public hearing will be held on October 6, 2008 at 11 a.m. at Alcoholic Beverage Control Board, 2901 Hermitage Avenue, Richmond, VA. Written public comments may be submitted to the Alcohol Beverage Control Board until October 17, 2008.

*The proposed amendments (i) provide a process for licensees to apply for permission to employ individuals with certain criminal convictions, (ii) allow persons 18 and over to serve wine at a counter in establishments selling wine only, (iii) allow wine to be placed in containers of ice by farm wineries at wine festivals, (iv) simplify food requirements for grocery stores and convenience grocery stores, (v) simplify the limitations of nonmember use of licensed club facilities, and (vi) clarify the rules with respect to partially nude entertainers at licensed establishments to define the separation that must be maintained from customers, specify the minimum clothing required at mixed beverage establishments, and clarify that this regulation does not restrict legitimate theatrical productions.*

For additional information, please contact W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, telephone (804) 213-4409, fax (804) 213-4411, TTY (804) 213-4687, or email [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov).

### **TITLE 4. CONSERVATION AND NATURAL RESOURCES**

#### **DEPARTMENT OF MINES, MINERALS AND ENERGY**

##### **Proposed Regulation**

**4VAC25-130. Coal Surface Mining Reclamation Regulations (amending 4VAC25-130-816.22, 4VAC25-130-816.43, 4VAC25-130-816.116, 4VAC25-130-817.22, 4VAC25-130-817.43, 4VAC25-130-817.116, 4VAC25-130-842.15).**

Written public comments may be submitted to the Department of Mines, Minerals and Energy until 5 p.m. on October 3, 2008.

*The proposed amendments will maintain consistency with corresponding federal regulations, allow more natural design of stream restoration channels, and clarify requirements for requesting reviews of decisions not to inspect or enforce. The sections being amended for consistency with federal regulations deal with redistribution of topsoil and topsoil substitutes, and measuring success of revegetation efforts.*

For additional information, please contact David Spears, Regulatory Coordinator, Department of Mines, Minerals and Energy, telephone (804) 692-3212, fax (804) 692-3237, TTY (800) 828-1120, or email [david.spears@dmme.virginia.gov](mailto:david.spears@dmme.virginia.gov).

## **TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS**

### **DEPARTMENT OF CORRECTIONS**

#### **Proposed Regulation**

**6VAC15-80. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (amending 6VAC15-80-10; adding 6VAC15-80-211).**

Public comments may be submitted in writing to the Department of Corrections until 5 p.m. on October 17, 2008.

*The proposed amendment allows local and regional correctional facilities to receive cost reimbursement, to define limits for required value management assessment studies that serve to keep construction costs lower while promoting quality and efficient designs. The value management assessment will analyze a project design including systems, products/materials used, quality, efficiency, functionality, long-term design, and operational needs beyond 10 years and cost.*

For additional information, please contact Brooks Ballard, Architectural & Engineering Services, Department of Corrections, telephone (804) 674-3102, fax (804) 674-3529, or email [brooks.ballard@vadoc.virginia.gov](mailto:brooks.ballard@vadoc.virginia.gov).

## **TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS**

### **STATE CORPORATION COMMISSION**

#### **Proposed Regulation**

**10VAC5-200. Payday Lending (adding 10VAC5-200-115).**

A public hearing will be scheduled upon request.

*The State Corporation Commission is proposing a regulation in connection with Chapter 849 of the 2008 Acts of Assembly, which generally amends the Payday Loan Act. Included in Chapter 849 are provisions that require licensed payday lenders to query a database before making a payday loan, and to pay a fee to the database provider in connection with each consummated loan. The amount of the database inquiry fee is required to be calculated in accordance with a schedule set by the commission. The proposed regulation specifies that the transaction fee will be no greater than \$5.00.*

For additional information, please contact E. J. Face, Jr., Bureau of Finance Commissioner, State Corporation Commission, telephone (804) 371-9659, fax (804) 371-9416, or email [joe.face@scc.virginia.gov](mailto:joe.face@scc.virginia.gov).

## **TITLE 12. HEALTH**

### **BOARD OF HEALTH**

#### **Proposed Regulation**

**12VAC5-90. Regulations for Disease Reporting and Control (amending 12VAC5-90-80).**

Written public comments may be submitted to the Board of Health until 5 p.m. on October 3, 2008.

*This proposed amendment will make permanent an emergency regulation that went into effect on October 24, 2007. It requires laboratory directors to report methicillin-resistant Staphylococcus aureus (MRSA) infections confirmed from specimens collected from normally sterile sites of the body, which indicate a serious, invasive form of the infection.*

For additional information, please contact Diane Woolard, Ph.D., Director, Disease Surveillance, telephone (804) 864-8124, or email [diane.woolard@vdh.virginia.gov](mailto:diane.woolard@vdh.virginia.gov).

### **BOARD OF HEALTH**

#### **Proposed Regulation**

**12VAC5-490. Virginia Radiation Protection Regulations: Fee Schedule (amending 12VAC5-490-10, 12VAC5-490-20).**

Public comments may be submitted in writing to the State Board of Health until 5 p.m. on September 19, 2008.

*The proposed amendments increase X-ray machine registration fees and inspection fees for most X-ray machines; decrease inspection fees for veterinary, podiatric, and cephalometric machines; and include additional types of X-ray machines in the inspection fee schedule.*

For additional information, please contact Les Foldesi, Director, Bureau of Radiological Health, Department of Health, telephone (804) 864-8151, fax (804) 864-8155, or email [les.foldesi@vdh.virginia.gov](mailto:les.foldesi@vdh.virginia.gov).

### **DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES**

#### **Proposed Regulation**

**12VAC35-200. Regulations for Respite and Emergency Care Admission to Mental Retardation Facilities (amending 12VAC35-200-10, 12VAC35-200-20, 12VAC35-200-30).**

Written public comments may be submitted to the Department of Mental Health, Mental Retardation and Substance Abuse Services until 5 p.m. on October 3, 2008.

*This action revises the statutory references to reflect the recent recodification of Title 37.1 to Title 37.2 of the Code of Virginia. Changes have been made to definitions of "authorized representative," and "mental retardation" and several other terms for clarity and consistency with the Code of Virginia and other regulations of the board. The application process and requirements for admissions for respite and emergency services have been clarified. The application materials are revised to require a statement from the individual, family member or authorized representative specifically requesting services in the facility.*

For additional information, please contact Dawn Traver, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, telephone (757) 253-4316, fax (757) 253-5440, or email [dawn.traver@co.dmhmrzas.virginia.gov](mailto:dawn.traver@co.dmhmrzas.virginia.gov).

## **TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

### **BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

#### **Proposed Regulation**

**18VAC65-20. Regulations of the Board of Funeral Directors and Embalmers (amending 18VAC65-20-10, 18VAC65-20-60, 18VAC65-20-435; adding 18VAC65-20-436).**

A public hearing will be held on September 9, 2008 at 9 a.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Suite 201, Conference Room 1, in Richmond, Virginia. Written public comments may be submitted to the Board of Funeral Directors and Embalmers until October 3, 2008.

*The proposed amendments include standards for crematories that are registered or are a part of a licensed funeral establishment to include requirements for (i) a manager of record who is a certified crematory operator and who is responsible for compliance with state and federal rules for crematories; (ii) certification of all persons who operate a retort; (iii) due diligence in the identification of the remains and authorization to cremate; (iv) safe and ethical operation of a crematory; (v) handling of human remains; and (vi) recordkeeping.*

For additional information, please contact Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, telephone (804) 367-4424, fax (804) 527-4637, or email [lisa.hahn@dhp.virginia.gov](mailto:lisa.hahn@dhp.virginia.gov).

### **BOARD OF PHYSICAL THERAPY**

#### **Proposed Regulation**

**18VAC112-20. Regulations Governing the Practice of Physical Therapy (amending 18VAC112-20-90, 18VAC112-20-130, 18VAC112-20-131, 18VAC112-20-150; adding 18VAC112-20-81).**

Written public comments may be submitted to the Board of Physical Therapy until 5 p.m. on October 3, 2008.

*The proposed amendments (i) establish the qualifications and application requirements for certification in direct access; (ii) set out the responsibility for the physical therapist to obtain the medical release and patient consent required by the statute; (iii) establish a biennial renewal of certification with continuing education hours; and (iv) establish the fees for direct access certification. Pursuant to Chapter 18 of the 2007 Acts of Assembly, emergency regulations establishing requirements for certification in direct access care are currently in effect, but will expire October 31, 2008.*

For additional information, please contact Lisa R. Hahn, Executive Director, Board of Physical Therapy, telephone (804) 367-4424, fax (804) 527-4413, or email [lisa.hahn@dhp.virginia.gov](mailto:lisa.hahn@dhp.virginia.gov).

### **BOARD OF PHYSICAL THERAPY**

#### **Proposed Regulation**

**18VAC112-20. Regulations Governing the Practice of Physical Therapy (amending 18VAC112-20-10, 18VAC112-20-40, 18VAC112-20-50, 18VAC112-20-60, 18VAC112-20-65, 18VAC112-20-70, 18VAC112-20-90, 18VAC112-20-120, 18VAC112-20-131, 18VAC112-20-135, 18VAC112-20-136, 18VAC112-20-140, 18VAC112-20-150; adding 18VAC112-20-160, 18VAC112-20-170, 18VAC112-20-180, 18VAC112-20-190, 18VAC112-20-200).**

Written public comments may be submitted to the Board of Physical Therapy until 5 p.m. on October 3, 2008.

*The proposed amendments clarify certain definitions and requirements for practice by physical therapists, simplify regulations for trainees, specify the additional training or course work required to retake the examination after three failures, add evidence of competency for licensure by endorsement, clarify the responsibilities of a physical therapist in the evaluation and discharge of a patient, modify the requirements for renewal or reinstatement of licensure, and add provisions on standards of professional practice and grounds for unprofessional conduct.*



For additional information, please contact Lisa R. Hahn, Executive Director, Board of Physical Therapy, telephone (804) 367-4424, FAX (804) 527-4413, or email [lisa.hahn@dhp.virginia.gov](mailto:lisa.hahn@dhp.virginia.gov).

## BOARD OF PSYCHOLOGY

### Proposed Regulation

#### **18VAC125-20. Regulations Governing the Practice of Psychology (amending 18VAC125-20-121, 18VAC125-20-122).**

Written public comments may be submitted to the Virginia Board of Psychology until 5 p.m. on September 19, 2008.

*The Board of Psychology (Board) proposes to make amendments to the regulation that include: (1) allowing licensees to satisfy continuing education requirements through courses that emphasize the ethics, standards of practice, or laws governing the profession of psychology in any state, not just in Virginia; (2) reducing the continuing education hours required to be face-to-face from seven to six (out of an annual continuing education requirement of fourteen hours) and allowing those face-to-face hours to be either face-to-face or real-time interactive<sup>1</sup>; (3) allowing the presentation of a seminar, workshop, or course, or the publication of an article or book in a recognized publication, be counted towards up to four hours of continuing education hours as long as the hours are credited only once for each unique course/piece and are not credited toward the face-to-face requirement; (4) allowing a maximum of 14 hours as continuing education to be accepted for an academic course directly related to the practice of psychology; (5) deleting the means by which course providers not listed as continuing education providers can apply for approval by the Board as continuing education providers.*

For additional information, please contact Evelyn B. Brown, Executive Director, Department of Health Professions, telephone (804) 367-4697, fax (804) 327-4435, or email [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

## BOARD OF PSYCHOLOGY

### Proposed Regulation

#### **18VAC125-30. Regulations Governing the Certification of Sex Offender Treatment Providers (amending 18VAC125-30-50, 18VAC125-30-80).**

Written public comments may be submitted to the Board of Psychology until 5 p.m. on October 3, 2008.

*The proposed amendments (i) allow credit for supervised hours for licensed persons who are able to document that those hours were working with the sex offender population within the past 10 years and (ii) require that certified sex offender treatment providers have at least six hours of*

*continuing education focused on the treatment of that population for annual renewal.*

For additional information, please contact Evelyn B. Brown, Executive Director, Board of Psychology, telephone (804) 367-4697, FAX (804) 327-4435, or email [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

## BOARD OF VETERINARY MEDICINE

### Proposed Regulation

#### **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine (amending 18VAC150-20-10, 18VAC150-20-15, 18VAC150-20-30, 18VAC150-20-70, 18VAC150-20-115, 18VAC150-20-120, 18VAC150-20-130, 18VAC150-20-140, 18VAC150-20-172, 18VAC150-20-180, 18VAC150-20-181, 18VAC150-20-190, 18VAC150-20-195, 18VAC150-20-200, 18VAC150-20-210, adding 18VAC150-20-121).**

Written public comments may be submitted to the Board of Veterinary Medicine until 5 p.m. on October 3, 2008.

*The proposed amendments (i) expand the criteria for cases that may be delegated to an agency subordinate for informal fact-finding; (ii) expand the courses and the provider list for approved continuing education; (iii) accept the accreditation by the Canadian Veterinary Medical Association for technician education; (iv) provide an additional alternative for meeting requirements for licensure by endorsement for veterinary technicians; (v) provide additional grounds for disciplinary action; (vi) clarify rules for delegation of veterinary tasks to unlicensed persons; (vii) establish rules for injection of microchips; (viii) allow biennial inventory to be performed by licensee other than the veterinarian-in-charge; (ix) clarify regulations for drug storage, recordkeeping and reconstitution; (x) clarify minimal requirements for a patient record; and (xi) define companion animals to include horses.*

For additional information, please contact Elizabeth Carter, Executive Director, Board of Veterinary Medicine, telephone (804) 662-4426, fax (804) 527-4471, or email [elizabeth.carter@dhp.virginia.gov](mailto:elizabeth.carter@dhp.virginia.gov).

## **TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS**

### **STATE CORPORATION COMMISSION**

#### **Proposed Regulation**

**20VAC5-302. Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility (amending 20VAC5-302-10, 20VAC5-302-20, 20VAC5-302-25, 20VAC5-302-35).**

A public hearing will be held upon request. Public comments may be submitted in writing to the State Corporation Commission until 5 p.m. on September 26, 2008.

*The State Corporation Commission (commission) proposes to revise its existing rules governing applications to construct and operate electric generating facilities (generation rules or rules). Legislation enacted by the 2007 and 2008 Sessions of the Virginia General Assembly is largely prompting the commission's decision to propose changes in its rules. The current rules are set forth in Chapter 302 (5VAC20-302) within Title 20 of the Virginia Administrative Code.*

*Amendments proposed to the generation rules establish filing requirements Virginia's electric utilities must satisfy in establishing need for proposed, new generation facilities to be constructed in Virginia. The information includes an analysis of load and generating capacity reserve forecast information that demonstrates the need for the plant in the in-service year proposed. The proposed amendments further provide that the construction in Virginia of electric generating facilities with rated capacities of 5 MW or less may be undertaken without complying with the full filing requirements currently set forth in the generation rules. Instead, persons desiring to construct such facilities are required to (i) submit a letter to the commission's Director of the Division of Energy Regulation stating the location, size and fuel type of the facility, and (ii) comply with all other requirements of federal, state and local law.*

For additional information, please contact Cody Walker, Assistant Director, Division of Energy Regulation, State Corporation Commission, telephone (804) 371-9611, fax (804) 371-9350, or email [cody.walker@scc.virginia.gov](mailto:cody.walker@scc.virginia.gov).

## **STATE CORPORATION COMMISSION**

#### **Proposed Regulation**

**20VAC5-312. Rules Governing Retail Access to Competitive Energy Services (amending 20VAC5-312-10, 20VAC5-312-20, 20VAC5-312-60, 20VAC5-312-80, 20VAC5-312-90, repealing 20VAC5-312-120).**

**20VAC5-313. Rules Governing Exemptions to Minimum Stay Requirements and Wires Charges (amending 20VAC5-313-10; repealing 20VAC5-313-30).**

A public hearing will be held upon request. Written public comments may be submitted to the State Corporation Commission until 5 p.m. on September 22, 2008.

*The proposed amendments incorporate changes to these rules as they relate to electric energy services necessitated by the changes in the statutory requirements for the provision of retail access to electric energy services set forth in amendments by the Virginia General Assembly to the Virginia Electric Utility Restructuring Act, (§56-576 et seq. of the Code of Virginia), renamed the Virginia Electric Utility Regulation Act. To initiate this proceeding, the commission's staff has prepared proposed rules that remove references to default service, modify the initiation of the reporting requirements for companies to begin with enrollment of customers under a retail access program, modify the customer information requirement on local distribution companies, modify the minimum stay requirement for electric customers, provide for an exception to the billing and payment rules for those companies offering an approved 100% renewable electric tariff to its retail customers, and eliminate the regulation governing competitive metering from 20VAC5-312. The proposed rules change 20VAC5-313 by eliminating rules related to wires charges.*

For additional information, please contact David Eichenlaub, Assistant Director, Division of Economics and Finance, State Corporation Commission, telephone (804) 371-9050, fax (804) 371-9935, or email [david.eichenlaub@scc.virginia.gov](mailto:david.eichenlaub@scc.virginia.gov).

## **TITLE 22. SOCIAL SERVICES**

### **STATE BOARD OF SOCIAL SERVICES**

#### **Proposed Regulation**

**22VAC40-211. Resource, Foster and Adoptive Family Home Approval Standards (adding 22VAC40-211-10 through 22VAC40-211-110).**

Written public comments may be submitted to the State Board of Social Services until October 3, 2008.

*The proposed regulations are intended to ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes. Regulations addressing approval of providers by local departments were contained in 22VAC40-770, which*

was repealed in 2007. This action is necessary to provide local departments with guidance in the approval of provider homes. In addition, the new regulations will create consistency between providers approved by local departments of social services and licensed child-placing agencies. This consistency was an action step of the Performance Improvement Plan developed in response to the federal Child and Family Services Review and is required by federal regulations.

Major components of the regulation include making all definitions and requirements consistent with other social services regulations and applicable approval requirements that fall under the purview of other state agencies; mandating training for resource, foster and adoptive home providers; requiring a narrative home study report; creating one set of standards for the approval of all types of family home providers (i.e.; resource, foster and adoptive) to streamline the process of approval; requiring proof of provider approval to be maintained in the child's file; and ensuring safety through standards for the home of the provider and requirements for criminal background checks.

For additional information, please contact Phyl Parrish, Quality Review Program Manager, Department of Social Services, Division of Family Services, telephone (804)726-7926, fax (804)726-7895, TTY (800) 828-1120, or email [phyl.parrish@dss.virginia.gov](mailto:phyl.parrish@dss.virginia.gov).

## STATE BOARD OF SOCIAL SERVICES

### Proposed Regulation

**22VAC40-705. Child Protective Services (amending 22VAC40-705-10, 22VAC40-705-30, 22VAC40-705-40, 22VAC40-705-50, 22VAC40-705-70, 22VAC40-705-80, 22VAC40-705-120, 22VAC40-705-140, 22VAC40-705-150, 22VAC40-705-180).**

Written public comments may be submitted to the State Board of Social Services until October 17, 2008.

*This proposed amendment incorporates current Code of Virginia requirements and clarify existing regulations. These changes include (i) expanding the definitions of physical and medical neglect, (ii) clarifying the use of state criminal history searches in child protective services investigations, (iii) clarifying the requirement to electronically record victim interviews and the exceptions to that requirement, (iv) revising the length of time local departments have to validate a report or complaint, and (v) amending training requirements.*

For additional information, please contact Nan McKenney, Child Protective Services Policy Supervisor, Department of Social Services, Division of Family Services, telephone (804)726-7569, fax (804)726-7895, TTY (800)828-1120, or email [nan.mckenney@dss.virginia.gov](mailto:nan.mckenney@dss.virginia.gov).

## Meeting Calendar for September - October '08

<i>Study/Commission Name</i>	<i>Meeting Information</i>	<i>DLS Staff</i>
Joint Subcommittee Studying Transfer of Development Rights	10:00 a.m., Friday, September 5, 2008 General Assembly Building, House Room C	Jeff Sharp Amigo Wade
JCOTS Executive Committee	2:00 p.m., Tuesday, September 9, 2008 General Assembly Building, House Room D	Lisa Wallmeyer Patrick Cushing
Joint Subcommittee Studying the Hampton Roads Transportation Network	10:00 a.m., Wednesday, September 10, 2008 Virginia Modeling, Analysis and Simulation Center 1030 University Boulevard, Suffolk, Virginia	Alan Wambold Caroline Stalker
Joint Subcommittee Studying Development and Land Use Tools	10:00 a.m., Thursday, September 11, 2008 General Assembly Building, House Room C	Kevin Stokes
Joint Subcommittee Studying Science, Math, & Technology Education	10:00 a.m., Tuesday, September 30, 2008 General Assembly Building, House Room C	Nikki Cheuk Patrick Cushing
JCOTS/FOIA Personal Identifying Information Subcommittee	10:00 a.m., Monday, October 6, 2008 General Assembly Building, 6th Floor Conference Room	Lisa Wallmeyer Patrick Cushing
Virginia Freedom of Information Advisory Council	1:00 p.m., Monday, October 6, 2008 General Assembly Building, House Room D	Maria Everett Alan Gernhardt
Virginia Housing Commission	For ongoing meeting information see website at: <a href="http://dls.state.va.us/HousComm.htm">http://dls.state.va.us/HousComm.htm</a>	Elizabeth Palen

*Meetings may be added at anytime, so please check the General Assembly and DLS websites for updates.*

# *Division of Legislative Services*

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