

# Virginia Legislative Record

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## Virginia Bicentennial of the American War of 1812 Commission

May 6, 2013

The Virginia Bicentennial of the American War of 1812 Commission (Commission) resumed its work for the 2013 interim under the direction of Delegate Kirk Cox, chair, with meetings of its Chesapeake Bay Tour Subcommittee, which is responsible for planning and organizing the Commission's signature event for 2013, the "Chesapeake Bay Tour."

### Chesapeake Bay Tour Subcommittee: Retracing the British Invasion of Hampton Roads

The Chesapeake Bay Tour Subcommittee (Subcommittee) met on May 6, 2013, to identify the significant War of 1812-related sites in the Hampton Roads area and engage historians and other knowledgeable persons concerning the history of the era about how best to commemorate the sacking of Hampton and Norfolk and Virginia's courageous defense of the United States East Coast. The Subcommittee met again on May 29, 2013, prior to the Commission's meeting to formulate recommendations for the tour. It recommended that July 9, 2013, be set aside for the dedication of historical markers and the daylong water tour of relevant War of 1812-related sites that were affected by the British invasion. The Commission also plans to engage an historian to address the history and legacy of the War of 1812 and highlight the significance of each site during the tour. Guests invited to join the Commission on the tour include its citizen advisory council; representatives of relevant state agencies, the National Park Service, the U.S. Coast Guard, the U.S. Navy, the

British Embassy, Fort Monroe, Norfolk Festevents, and the business community; local officials; members of the General Assembly and Virginia Congressional Delegation who represent the Hampton Roads area; and others. During the Chesapeake Bay Tour, the following historical markers will be dedicated and later installed at the sites noted:

Historical Marker	Location
British Landing at Nomini Ferry	Westmoreland County
Sack of Hampton	City of Hampton
War of 1812 Military Legacy	City of Hampton
British Approach to Hampton	City of Hampton

The Commission and the Virginia Department of Historic Resources plan to promote the event collaboratively with appropriate releases to the media.

May 29, 2013

The full Commission met in Richmond for its first meeting of the 2013 interim.

### Bicentennial of the Battle of Craney Island

The bicentennial of the Battle of Craney Island, a pivotal battle in 1813 in which the American forces saved Norfolk and Portsmouth from British invasion, also occurs in 2013. Captain Chris Melhuish, the Battle of Craney Island Bicentennial Coordinator for the Norfolk Historical Society, addressed the Commission concerning plans to commemorate the bicentennial of the battle and requested the Commission's support. The Commission agreed to support the commemoration by publicizing and attending the programs and events scheduled for June 12-23, 2013.

## Recommendations of the Chesapeake Bay Tour Subcommittee

Delegate Christopher Peace, Subcommittee chair, submitted the Subcommittee's recommendations for approval. The Commission agreed that a contract should be entered into with the *American Rover* based in Norfolk for the tour. The schooner has the capacity to accommodate 125 persons, and lunch can be provided on board by a caterer obtained by the Commission. Stuart Butler, an historian and advisory council member, was asked to serve as narrator. Following the dedication of the historical markers, the Commission and guests will sail from Hampton to Fort Monroe, Craney Island, Fort Norfolk, and back to Hampton, retracing the route of the British during the 1813 Hampton invasion.

## Memorandum of Understanding

The Commission approved the draft memorandum of understanding with the National Park Service pertaining to dual signage for common sites on the Virginia War of 1812 Heritage Trail and the Star-Spangled Banner National Historic Trail. Staff was asked to prepare the memorandum for review and approval by the National Park Service.

## Assignments for 2014 Legacy Symposium

Acknowledging the need to expedite plans for the 2014 Legacy Symposium, the Commission chair made the following appointments of Commission and Advisory Council members to the 2014 Legacy Symposium Subcommittee, to which other persons representing the education, historical, heritage, military, and business communities may be added:

- Delegate Christopher Peace.
- Delegate Rosalyn Dance.
- Betsy Barton.
- Sara Bon-Harper.
- Peter Broadbent, Jr., Esquire.
- Walter Craigie.
- Patrick Farris.
- Kathleen Kilpatrick.

- Jacque-Lynne Schulman.
- George Thomas, Jr.
- Dr. Sandra Treadway.

He asked that the group meet during the summer to present an outline and preliminary plans at the Commission's next meeting. Delegate Christopher Peace was named chair.

July 9, 2013

## Hampton Historical Marker Dedication and Chesapeake Bay Tour

In commemoration of the Bicentennial of the American War of 1812 and Hampton's 403rd Founder's Day, the Commission, led by Delegate Kirk Cox, chair, retraced the British invasion of Hampton Roads on the Virginia side of the Chesapeake Bay and dedicated three new historical markers in the City of Hampton:

- Sack of Hampton.
- War of 1812 Military Legacy.
- British Approach to Hampton.

The Commission was joined at the marker dedication by members of its Citizens Advisory Council, Hampton Vice Mayor George Wallace, Hampton Councilmen Christopher Stuart and Will Moffett, and Virginia Department of Historic Resources representatives Marc Wagner and Peter Luebke; representatives of Hampton University, Hampton Convention and Visitor Bureau, the Hampton History Museum, Hampton Historical Society, and the business community; and many others.

The historical markers describe Hampton's critical role in the success of the war and will be erected in various locations in downtown Hampton. The Chesapeake Bay water tour represented the Commission's 2013 signature event for the bicentennial. The Commission and its guests sailed aboard the *American Rover* schooner from Hampton to Fort Monroe, Fort Norfolk, and Craney Island before returning to Hampton. During the trip, Bill Thomas, Associate Vice President of Hampton University's Office of Governmental Relations, informed the group about the founding and status of Hampton University. Former Delegate G. Glenn Oder, Executive Director of the Fort Monroe Authority, described the role of Fort Monroe in the War of 1812 and its future plans. Stuart Butler, historian, archivist, author, and Advisory Council member, narrated key aspects

*The Virginia Bicentennial of the American War of 1812 Commission dedicated three new historical markers in the City of Hampton.*

and included little-known historical nuggets about the War of 1812.

The dedication and installation of other War of 1812 historical markers are planned in the future. Other signature events include:

- The Banner Lecture Series, "Fighting for Freedom: African Americans and the War of 1812," on September 4, 2013, at the Virginia Historical Society.
- The presentation by Commission member Nancy Heuser of "A Petersburg Volunteer in the War of 1812," on October 12, 2013.
- A Legacy Symposium at Fort Monroe in June 2014.
- The recognition of the occupation of Alexandria and the burning of the White House in August 2014.
- A memorial dedication to the Petersburg Volunteers and other Virginia militiamen buried at Fort Meigs, Ohio, in 2015.

## Next Meeting

The next meeting, scheduled for September 11, 2013, will include reports on the Chesapeake Bay Tour, the 2014 Legacy Symposium, Memorandum of Agreement with the National Park Service, plans to commemorate the British occupation of Alexandria and the burning of the White House, and the dedication of historical markers, particularly for the Petersburg Volunteers and Virginians buried at Fort Meigs, Ohio.



### VIRGINIA BICENTENNIAL OF THE AMERICAN WAR OF 1812 COMMISSION

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# Virginia Housing Commission

June 14, 2013

Virginia Housing Commission (Commission) members spent June 14, 2013, touring the former Hope VI project in Norfolk known as Broad Creek; the Single Room Occupancy (SRO) Housing known as Westbury in Portsmouth, which serves many formerly homeless individuals; and the Hope VI South Bay Apartments in Portsmouth. Commission members had the opportunity to tour homes, speak with residents, and learn about the building materials, site costs, and housing logistics. Work groups continue to meet during the 2013 interim.

*The Virginia Historical Society Banner Lecture Series will feature a talk entitled "Fighting for Freedom: African Americans and the War of 1812."*



### VIRGINIA HOUSING COMMISSION

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# Joint Study of Local Tax Structure

June 14, 2013

More than half (52) of Virginia's 95 counties impose the BPOL tax, with 21 counties relying on the BPOL tax for at least two percent of their local tax revenues.

The Small Business Commission and the Manufacturing Development Commission met jointly in Virginia Beach to evaluate a restructuring plan to eliminate the business, professional and occupational license (BPOL) tax; the machinery and tools (M&T) tax; and the merchants' capital tax. The Commissions heard presentations relating to follow-up issues from the first meeting of the Commissions in April, the potential impact of the machinery and tools tax on a business's decision of where to locate operations, and the status of career and technical education in Virginia.

## Local Government Reliance on Certain Taxes

Mark Vucci, Senior Attorney, Division of Legislative Services

Mr. Vucci discussed local governments' reliance on the BPOL, machinery and tools, and merchants' capital taxes for local tax revenues in FY 2011.

### Cities

#### Machinery and Tools Tax

City	Percent of City's Tax Revenues
Covington	39.98%
Hopewell	14.11%
Petersburg	9.19%
Galax	6.99%

Fourteen other cities depend upon the machinery and tools tax for at least two percent of their tax revenues.

#### Merchants' Capital Tax

City	Percent of City's Tax Revenues
Radford	1.98%

#### BPOL Tax

City	Percent of City's Tax Revenues
Martinsville	12.47%
Norton	11.5%
Danville	10.49%
Galax	10.38%

Each of the above cities relies on the BPOL tax for at least 10 percent of its tax revenues.

Every city in the Commonwealth imposes the BPOL tax, with the City of Poquoson relying least on the tax for local tax revenues at 2.2 percent.

### Counties

#### Machinery and Tools Tax

County	Percent of County's Tax Revenues
Alleghany	37.33%
Giles	22.93%
Greensville	16.29%
Isle of Wight	16.1%
Campbell	14.83%
Rockingham	13.05%
Henry	12.2%
Sussex	11.91%
Wythe	10.52%
Smyth	10%

Thirty-six additional counties relied on the machinery and tools tax for at least two percent of their tax revenues.

#### Merchants' Capital Tax

Forty-six counties imposed the merchants' capital tax in FY 2011, with Tazewell County relying most on the tax for local tax revenues at 3.08 percent.

#### BPOL Tax

Counties	Percent of County's Tax Revenues
Arlington	7.34%
Prince George	6.34%
King George	6.18%
Henrico	5.82%
York	5.48%

More than half (52) of Virginia's 95 counties imposed the BPOL tax. Twenty-one counties relied on the BPOL tax for at least two percent of their local tax revenues.

### Towns

#### Machinery and Tools Tax

Town	Percent of Town's Tax Revenues
West Point	42.46%
Berryville	9.8%
Strasburg	9.59%
Pulaski	9.07%
Bridgewater	6%

Five additional towns relied on the machinery and tools tax for at least two percent of their local tax revenues.

**Merchants’ Capital Tax**

No towns imposed a merchants’ capital tax.

**BPOL Tax**

<b>Town</b>	<b>Percent of Town’s Tax Revenues</b>
Warrenton	25.17%
Farmville	24.3%
Richlands	20.9%
Herndon	18.82%
Marion	17.57%
Rocky Mount	16.74%

Thirty additional towns relied on the BPOL tax for at least two percent of their local tax revenues.

Mr. Vucci also compared and contrasted the taxation of services by the Commonwealth with that of other states. In 2007 the Federation of Tax Administrators (FTA) published a study that identified 168 services sectors and which sectors were subject to excise taxes in the 50 states and the District of Columbia. Of the 168 services sectors, 18 were subject to an excise tax in the Commonwealth. Only Alaska (1), Colorado (14), Illinois (17), New Hampshire (11), and Oregon (0) taxed fewer services sectors. Massachusetts, Montana, and Nevada, like Virginia, also taxed 18 services sectors. The taxation of services sectors in Virginia is well below the national average. It is also well below the average number of services sectors taxed in neighboring and Southeastern states. More than half the states (28), including the Commonwealth, imposed excise taxes on less than one-third of the 168 services sectors identified by FTA. States on average taxed only one out of the nine professional services sectors identified by FTA. Professional services sectors identified by FTA were accounting and bookkeeping, architects, attorneys, dentists, engineers, land surveying, medical test laboratories, nursing services out-of-hospital, and physicians.

Mr. Vucci then reviewed recommendations made by the Manufacturing Development Commission in 2012 pursuant to House Joint Resolution No. 735 (2011), which directed the Commission to develop a plan for repatriating manufacturing jobs and evaluating possible tax incentives. Some of the Commission’s recommendations overlap with the current study being undertaken by the Manufacturing Development and Small Business Commis-

sions. The 2012 recommendations of the Manufacturing Development Commission pursuant to House Joint Resolution No. 735 that touch upon the current study include:

- Analysis by the Joint Legislative Audit and Review Commission of why the manufacturing sector pays a disproportionately large share of the state’s corporate income tax and other taxes and to identify measures to eliminate this disparity.
- Study by the Department of Taxation of the consequences and costs of permitting manufacturers to offset their local machinery and tools tax payments against certain state taxes.
- Legislation to provide that the assessed value of machinery and tools for property taxation be limited to the depreciated value of the machinery and tools, consistent with Internal Revenue Service rules.
- Legislation to exempt new investments from the machinery and tools tax.
- Legislation to exempt manufacturers from BPOL tax liability for retail sales made at a store located at the site of the products’ manufacture.
- Legislation to exempt combined heat and power projects for high-energy users from local taxation, similar to the exemptions for persons producing electricity from natural gas.

*The taxation of services sectors in Virginia is well below the national average.*

**STIHL, Inc.**

Carter Barrett, Manager of Financial Accounting, STIHL, Inc.

Mr. Barrett provided an overview of STIHL’s operations nationally, internationally, and in Virginia Beach. STIHL’s production in the United States since 1974 has been approximately 50 million units. More than half of its worldwide production is attributable to its plant in Virginia Beach. Its manufacturing site in Virginia Beach covers 2.2 million square feet on 151 acres and employs 1,900 individuals. STIHL utilizes 120 robots, all of which are subject to the machinery and tools tax. Even with automation, STIHL has increased its employment. The robots used by STIHL require highly skilled employees for operation.

Mr. Barrett indicated that STIHL can exercise some control over its labor costs, material costs, indirect materials supplies, overhead costs, and investments. Costs that it cannot control are federal and state income taxes, sales and use taxes, business personal

*The United States corporate income tax rate is one of the highest in the world.*

property taxes, real estate taxes, and foreign exchange rates. Mr. Barrett noted that the United States corporate income tax rate is one of the highest in the world, and that STIHL pays one of the highest income taxes in comparison with its competitors. He stated that taxes have a significant impact on the costs of production, directly impact STIHL's ability to compete for investment, and are a factor in a business's decision of where to locate operations.

Mr. Barrett told the members that automation has been key in keeping STIHL competitive worldwide as it has helped level the playing field with countries with low labor rates, ensured repetitive tasks have been completed to specifications, and improved ergonomics for employees. Local machinery and tools taxes increase the costs of automation. Robots with a long, useful life are subject to the tax until such time as they become obsolete.

He concluded his presentation by observing that Virginia Beach has always had a relatively low machinery and tools tax, which has enhanced STIHL's return on investment on automation. In 2012, Virginia Beach eliminated its machinery and tools tax.

## **Virginia Beach Machinery and Tools Tax**

Michelle Chapleau, Business Development Manager, Virginia Beach Department of Economic Development

Ms. Chapleau spoke about the Virginia Beach machinery and tools tax. Machinery and tools were assessed at 33.3 percent of fair market value for purposes of the tax and then a tax rate of \$1 per \$100 of assessed value was imposed by the City. Approximately 200 manufacturing businesses paid the tax, generating approximately \$1.46 million annually. STIHL paid more tax on machinery and tools than any other business, accounting for approximately 40 percent of the annual revenues generated by the tax in Virginia Beach. Relative to other taxes imposed and collected by Virginia Beach, revenues from the machinery and tools tax were small. Virginia Beach's hotel tax generates about \$23 million each year, and the meals tax generates about \$48 million each year. Beginning in FY 2012, Virginia Beach eliminated its machinery and tools tax to attract new companies, create jobs, and remain competitive with other communities. Ms. Chapleau stated that revenues lost from the elimination of the machinery and tools tax have been replaced by increased tax revenues from business growth and job creation. She noted that

manufacturers in Virginia Beach do not pay an inventory, business equipment, or machinery and tools tax.

Since Virginia Beach eliminated its machinery and tools tax, Green Flash Brewing Co.; Architectural Graphics, Inc.; IMS: Gear; Osen-Hunter Defense Systems, LLC; STIHL, Inc.; and BMZ USA, Inc., all have announced plans to invest in capital projects and hire new employees in Virginia Beach. The capital investment to be made by these six companies totals \$95.3 million with 317 new jobs anticipated to be created. Green Flash Brewing Co. announced that it will make \$20 million in capital investments and will create 41 new jobs. Green Flash Brewing Co. is scheduled to begin operations in 2015 and will become the largest craft brewer in Virginia. Architectural Graphics, Inc., announced that it will make \$17.3 million in capital investments and will create 125 new jobs. Virginia Beach competed with Georgia for the Architectural Graphics, Inc., economic development project.

## **Career and Technical Education**

The Honorable Michael B. Watson, House of Delegates

Delegate Watson gave an update on career and technical education in the Commonwealth. Statewide, more than 50,000 students leave high school with some type of industrial certification. Virginia has 10 Regional Education Centers that focus on career and technical education. As industry needs drive career and technical education courses, course subject matter changes on average every three to five years, with 50 to 70 career and technical education courses updated annually. Currently, beginning with eighth grade and at the end of the ninth, tenth, and eleventh grades, students must participate in an exercise to identify a prospective academic or career path plan. Beginning with the 2013-2014 academic year and starting with ninth-grade classes, students pursuing a Standard Diploma must have some kind of career credential in order to graduate.

First-time ninth graders pursuing a Standard Diploma must earn the following number of verified credits: English (2), Mathematics (1), Laboratory Science (1), History and Social Sciences (1), and Student Selected Test (1). For the Student Selected Test verified credit, students may utilize additional tests for earning verified credit

(SOL alternative) in computer science, technology, career and technical education, economics, or other areas as prescribed by the Board of Education. In addition, students who complete a career and technical education program sequence and (i) receive a certification or an occupational competency credential from a recognized industry, or trade or professional association, or (ii) acquire a professional license in a career and technical education field from the Commonwealth may substitute the certification, competency credential, or license for (a) the Student Selected verified credit and (b) either a Science or History and Social Sciences verified credit when the certification, license, or credential confers more than one verified credit.

Delegate Watson stated that steps must be taken to eradicate any stigma associated with career and technical education. Many graduating high school students are not prepared or trained to fill high-paying jobs requiring highly skilled workers, which is a deterrent to drawing manufacturing and other businesses to the Commonwealth. One possibility for removing any stigma is to rename career and technical education competency assessments to Standards

of Career and Technical Education assessments. The concept is to place SOLs and competency assessments on the same playing field. Delegate Watson concluded by stating that further steps should be undertaken to educate parents and students on career and technical education career-related opportunities.

## Next Meeting

The next meeting of the Joint Study of Local Tax Structure will be posted on the Joint Study and General Assembly websites as soon as information is available.

### JOINT STUDY OF LOCAL TAX STRUCTURE

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*Virginia has 10 Regional Education Centers that focus on career and technical education.*

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## Other Legislative Commissions and Committees

The following are other legislative commissions and committees that hold regular meetings during the interim. Visit their websites to obtain full information regarding their meeting dates, agendas, and summaries.

### Joint Legislative Audit and Review Commission

<http://jlarc.virginia.gov/meetings.shtml>

### Virginia State Crime Commission

<http://vscc.virginia.gov/meetings.asp>

### Joint Commission on Health Care

<http://jchc.virginia.gov/meetings.asp>

### Virginia Commission on Youth

<http://vcoy.virginia.gov/meetings.asp>

### House Appropriations Committee

<http://hac.virginia.gov/>

### Senate Finance Committee

<http://sfc.virginia.gov/>

# Joint Subcommittee to Evaluate Tax Preferences

June 18, 2013

Approximately 7,000 nonprofit entities are approved for sales tax exemptions.

The Joint Subcommittee to Evaluate Tax Preferences (Joint Subcommittee) held its second meeting of the 2013 interim in Richmond, with Senator McWaters, chair, calling the meeting to order. He advised the members that they needed to think about the outcomes they would like to achieve prior to the 2014 Session of the General Assembly.

In response to an inquiry at the last meeting, members received a handout prepared by the Department of Taxation listing the approximately 7,000 nonprofit entities approved for sales tax exemptions. Members discussed whether a mechanism should be put in place to identify the benefits that the Commonwealth and community are receiving by allowing these nonprofits to benefit from the preference. It was also suggested that entities that fall beneath a certain threshold of gross revenues might be allowed to fill out a shortened application for the exemption, as the administrative costs of reviewing the application might outweigh the small loss in sales tax revenues for these entities.

In response to questions about how the sales tax exemption works, representatives from the Department of Taxation explained that once an entity receives an exemption certificate, the entity provides the certificate to the merchant upon making a purchase and no sales tax is collected. There is no specific record of the purchase, and the only data the state collects about exempt purchases is from each entity's estimate of exempt purchases on its application or renewal. The chair asked the Joint Subcommittee if the Commonwealth really needs 7,000 exempt entities and whether the Commonwealth is achieving its intended result.

Staff for the Joint Subcommittee provided an overview of a handout from the Tax Foundation outlining the principles of sound tax policy. The document was provided to the members as a means of initiating discussion about the overall goals of the Joint Subcommittee in evaluating tax preferences and overarching tax structure goals. The handout listed the following principles:

- Simplicity.
- Transparency.
- Neutrality.
- Stability.

- No retroactivity.
- Broad bases.
- Low rates.

Members added that they would like to see “adequacy” and “fairness and equity” added to the principles.

The members continued with a discussion of the role of preferences in achieving public policy goals and the relationship of preferences to the overall tax base and tax rates.

After the discussion concluded, Joe Mayer, Lead Tax Policy Analyst with the Department of Taxation, provided a presentation on the service exemption from sales tax.

## Work Group #1 (Income Tax)

Work Group #1 met immediately upon adjournment of the Joint Subcommittee meeting on June 18, 2013. Delegate Ben Cline, chair of the work group, called the meeting to order. The focus of the work group meeting was corporate income tax.

Staff provided the committee with a brief overview of the current corporate tax structure, including identifying the types of entities subject to corporate income tax and current tax rates. Staff also provided a brief overview of legislation introduced during the past several years in Virginia that would have amended the corporate income tax, as well as more recent efforts in other states to amend their corporate income tax. Finally, staff outlined the issues raised in the corporate income tax bills and resolutions from the 2013 Session of the General Assembly referred to the work group for review: SB 692, SB 745, and SJR 255.

Members of the work group conducted a general discussion and asked for follow-up on several issues at future work group meetings. Specifically, the members were interested in learning about:

- States that do not have a corporate income tax.
- Whether C corporations are taxed at the same rate as individuals in other states.
- Whether there were any benefits to taxing C corporations at the same rate as individuals.
- The implications of eliminating the corporate income tax.
- Who, in Virginia, currently pays the corporate income tax.



- How corporations currently reduce their tax liability.
- Other states' efforts to innovate and modernize their income tax structure (including preferences).

Delegate Cline encouraged the members of the work group to also begin looking at individual income tax preferences. Members expressed an interest in hearing from recipients of particular tax credits at future meetings in an attempt to assess the benefits of the credits.

## Work Group #2 (Sales Tax)

Work Group #2 also met immediately upon the adjournment of the Joint Subcommittee on June 18, 2013.

Joe Mayer, Lead Tax Policy Analyst, Virginia Department of Taxation

Mr. Mayer made a presentation on the media-related sales and use tax exemptions. Currently, there are seven media-related sales and use tax exemptions:

- Copyright audio or video tapes and films for public exhibition at motion picture theaters or by licensed radio and television stations- (§ 58.1-609.6 (1) of the Code of Virginia).
- Broadcasting equipment and Internet Service Providers' equipment, parts, and accessories (§ 58.1-609.6 (2) of the Code of Virginia).
- Newspapers, magazines, periodicals, and other publications (§ 58.1-609.6 (3) of the Code of Virginia).
- Catalogs and similar printed materials (§ 58.1-609.6 (4) of the Code of Virginia).
- Certain advertising (§ 58.1-609.6 (5) of the Code of Virginia).
- Tangible personal property used in audiovisual production (§ 58.1-609.6 (6) of the Code of Virginia).
- Textbooks/educational materials withdrawn from book publishing distribution companies' inventory (§ 58.1-609.6 (7) of the Code of Virginia).

Mr. Mayer also prepared a document regarding the sales and use tax exemptions for nonprofit entities that is available on the Joint Subcommittee website. However, during the full Joint Subcommittee meeting that immediately preceded the work group meeting, members received a spreadsheet of the approximately 7,000 nonprofit entities. Accordingly, these exemptions were discussed

during the Joint Subcommittee meeting and not at the work group meeting. Two other documents representing the top 100 nonprofit entities, one according to the amount of gross receipts and the other according to the amount of exempt purchases, were provided to the work group. Copies of all presentations and materials are available on the Joint Subcommittee website.

## Next Meeting

The next meeting of the Joint Subcommittee will be posted on the Joint Subcommittee and General Assembly websites as soon as information is available.

*There are currently seven media-related sales and use tax exemptions.*

### JOINT SUBCOMMITTEE TO EVALUATE TAX PREFERENCES

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# Virginia Disability Commission

June 19, 2013

*Federal budget reductions and sequestration will have a negative impact on the Commonwealth with public assistance programs through the Department of Social Services cut by approximately \$10.5 million.*

The Virginia Disability Commission (Commission) held its first meeting of the 2013 interim in Richmond. Following introductions and opening remarks, Sarah Stanton and Ryan Brimmer, staff attorneys from the Division of Legislative Services, provided an overview of the purpose of the Disability Commission and an update on legislative initiatives from the 2013 Session, respectively.

## 2013 Budget Update

Joe Flores, Fiscal Analyst, Virginia Senate Finance Committee

Mr. Flores provided an update on the overall revenue picture for the Commonwealth and on changes specifically affecting the Commonwealth's health and human resources agencies, including potential changes to the Commonwealth's Medicaid program. Mr. Flores noted that for the second year, the General Assembly had additional resources with which to work. These additional resources, which totaled \$290.8 million, included revenue growth of \$120.7 million offset by tax policy actions totaling \$80.1 million, prior-year balances of \$120.1 million, transfers of \$43.7 million, and an appropriated balance of \$6.3 million. In total, \$903.4 million was available to the 2013 General Assembly for appropriation. Major general fund spending approved by the General Assembly during 2013 included mandatory and operational rainy day fund deposits; spending for Medicaid, Family Access to Medical Insurance Security, and State Children's Health Insurance Program utilization and inflation; salary increases for state employees, teachers, and higher education faculty; additional funding for state employee health insurance, elimination of local aid reversion, higher education initiatives, and the River North Correctional Center; and funding for the Water Quality Improvement Fund.

In the health and human services field, the Department of Behavioral Health and Developmental Services received an additional \$19 million to focus on reducing waiting lists, addressing mandates, and improving access to services, including Part C early intervention services for infants and toddlers, crisis services for adults and children with intellectual disabilities, children's mental health services,

transitioning individuals with mental illness from state facilities to the community, suicide prevention, and therapeutic drop-off centers for individuals with mental illness. Agencies providing vocational rehabilitation, personal assistance services, and brain injury and employment support services received an additional \$1.9 million to reduce waiting lists and improve opportunities for people with disabilities. The Department of Medical Assistance Services (DMAS) received an additional \$14.8 million, with funding targeted to increasing waiver slots, restoring Medicaid eligibility up to 300 percent of SSI for long-term services for the elderly and disabled, increasing rates for private-duty nursing services under the technology assisted waiver by five percent, and increasing rates for adult day health services by 10 percent.

Mr. Flores also noted that the question of whether or not to expand Medicaid received a great deal of attention during the 2013 Session and would continue to do so during the 2013 interim. Final language in the appropriation act conditioned expansion of the state's Medicaid program up to 133 percent of the federal poverty level upon implementation of certain reforms and established the Medicaid Innovation and Reform Commission (MIRC) to track and evaluate those reforms. Language included in the appropriation act:

- Requires DMAS to seek federal authority to make reforms to Medicaid and FAMIS in three phases.
- Requires DMAS to report to MIRC on the status of approval of reforms.
- Provides a sum sufficient nongeneral fund appropriation to expand coverage.
- Creates the Virginia Health Reform and Innovation Fund to provide health innovation grants from savings generated by Medicaid expansion upon an affirmative vote of MIRC to expand Medicaid.
- Requires the disenrollment of the expansion population if the federal government reduces funding below statutory funding levels.

Looking forward, Mr. Flores noted that federal budget reductions and sequestration will have a negative impact on the Commonwealth. Public assistance programs through the Department of Social Services will be cut by an estimated \$10.5 million, while the Department of Behavioral Health and Developmental Services could see \$3.4 million in cuts to funding for mental health services, substance abuse prevention and treatment, and Part C early intervention services.

## Department for Aging and Rehabilitative Services

Jim Rothrock, Commissioner,  
Department for Aging and  
Rehabilitative Services

Mr. Rothrock provided an update on the activities of the Department for Aging and Rehabilitative Services (DARS). He noted that DARS had received funding to reduce waiting lists for vocational rehabilitative, personal assistance, brain injury, and long-term and extended employment support services. The Department also received funding to hire a dementia services coordinator. Mr. Rothrock drew the Commission's attention to Executive Order 55, signed by Governor Robert McDonnell on November 16, 2012. Executive Order 55 directs all state agencies to work with DARS, the Department for the Blind and Vision Impaired, the Department of Behavioral Health and Developmental Services, the Department of Veterans Services, and the Department of Education to provide a range of career-building opportunities for persons with disabilities and directs the Virginia Workforce Council, the Virginia Employment Commission, and the Virginia Community College System to convene a work group to identify and develop strategies for expanding the employment of individuals with disabilities in the private sector. A Kickoff Summit will be held on June 27, 2013, and eight regional work groups will be held across the state, targeting local state agency staff and the business community.

Commissioner Rothrock then spoke about several new programs administered by the Department for Aging and Rehabilitative Services, including the Lifespan Respite Voucher Program, the Long-term Care Ombudsman Program, the Virginia Public Guardian and Conservator Program, and the No Wrong Door initiative. Commissioner Rothrock also provided information about federal funds for aging services received by the Department's Division for the Aging. Several Commission members asked questions about the Virginia Public Guardian and Conservator Program. Specifically, Commission members were interested in the projected growth in the need for services, the existing waiting list of 291 individuals, and opportunities for ensuring that the Commonwealth is able to meet growing needs in the future.

## Department for the Blind and Vision Impaired

Ray Hopkins, Commissioner,  
Department for the Blind and Vision  
Impaired

Mr. Hopkins provided an update on the programs and services of the Department for the Blind and Vision Impaired (Department), including the Department's library and resource center, Braille textbook services, regional education coordinators, and employment services for adults, including activities related to Executive Order 55. Mr. Hopkins noted that during the 2013 Session, responsibility for special education services for students who are blind or vision impaired was transferred from the Department to the Department of Education. Special education needs of blind or vision-impaired students were included in the Standards of Quality.

## Department for the Deaf and Hard-of-Hearing

Ronald Lanier, Director, Department  
for the Deaf and Hard-of-Hearing

Mr. Lanier provided an update on the programs and activities of the Department for the Deaf and Hard-of-Hearing (Department). He noted that the Department's mission is to reduce communication barriers for individuals who are deaf and hard of hearing as well as their family members. Major initiatives and programs include the telecommunications relay service, interpreter services program, quality assurance screening program, technology assistance program, and outreach information and referral services. He described the importance of the outreach program and noted that since 2008, the program's funding had been reduced by 30 percent. Mr. Lanier also described a new program, the Technology Assistance Program for Veterans, which assists veterans who have hearing loss as a result of a combat injury in securing assistive technology by waiving financial eligibility requirements.

## Work Group Reports

Work Group #1 (Housing and  
Transportation)

Work Group #1 reported that the work group members had discussed a range of housing and transportation issues, focusing on the need to identify a funding source for the Virginia Housing Trust Fund, the need for

*A Kickoff Summit was held June 27, 2013, to develop ways of expanding the employment of individuals with disabilities in the private sector.*

*Teaching positions for teachers of blind and vision-impaired students will now be funded through the Standards of Quality.*

rental assistance in the Commonwealth, and the need to coordinate development of housing and transportation services. Moving forward, the work group will study options for:

- Funding the Housing Trust Fund, including using additional recordation tax revenues to support the development of housing that is near existing transportation services in Northern Virginia and Tidewater.
- Using savings from transitioning individuals out of group homes and into independent living situations to support a rental assistance program.
- Creating additional incentives for building in places where transportation is available.
- Increasing flexibility under the state Auxiliary Grant Program.

The work group will also work on developing language for a study resolution directing the Commission to work together with stakeholders to study options for encouraging local governments to include in their comprehensive plans elements intended to address housing and transportation needs of individuals with disabilities.

#### Work Group #2 (Education and Employment)

Work Group #2 reported that the work group meeting began with a discussion of HB 1420 (2013), a Commission recommendation that included a definition of “interveners” for deaf-blind students. Teaching positions for teachers of blind and vision-impaired students will now be funded through the Standards of Quality with an additional appropriation of approximately \$4.4 million. Previously, these positions were funded through the Department for the Blind and Vision Impaired at a rate of approximately \$500,000 per year. The work group also heard a presentation on the Department of Behavioral Health and Developmental Services’ Employment First Policy. Work group members discussed concerns about data collection practices and encouraged the Department of Behavioral Health and Developmental Services to continue to communicate with the work group about ways in which the Commission can support Employment First in the future. One legislative proposal that the work group will explore further at the next meeting is a tax credit for employers who hire disabled employees. At its next meeting, the work group will receive presentations on Supported Employment services and school-to-work transition programs.

#### Work Group #3 (Publicly Funded Services)

Work Group #3 reported that the work group had discussed:

- Funding for personal assistance services, brain injury services, and long-term care case management services provided by the Department for Aging and Rehabilitative Services.
- Funding for outreach, information, and referral services provided by the Department for the Deaf and Hard-of-Hearing.
- Funding to recapitalize the Consumer Service Fund.
- Funding to restore budget cuts for and increase access to Centers for Independent Living.
- Concerns about the Commonwealth’s Auxiliary Grant Program.
- Processes and procedures of the Money Follows the Person program.
- Concerns about procedures governing payment for consumer-directed services provided through the Commonwealth’s waiver programs.

The work group will continue to study these issues at its next meeting.

#### Next Meeting

The next meeting of the Commission will be posted on the Commission and General Assembly websites as soon as information is available.

#### VIRGINIA DISABILITY COMMISSION

**DELEGATE BRENDA POGGE, CHAIR**  
SARAH STANTON AND RYAN BRIMMER, DLS STAFF

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# Virginia Code Commission

June 19, 2013

The Virginia Code Commission (Commission) met in Richmond with Senator John Edwards, chair, presiding.

## 2013-2014 Proposed Work Plan

### Title Recodifications

Jane Chaffin, Registrar of Regulations, Division of Legislative Services

The Commission first considered which Code of Virginia title to undertake for recodification next year. Ms. Chaffin advised that public comment was solicited through June 18 on the titles being considered by publishing notices on the *Virginia Lawyers Weekly* blog, on the Commission's website, and in the *Virginia Register of Regulations*. Although no public comment was received, Kirsten Nelson, Director of Communications and Government Relations with the State Council of Higher Education for Virginia (SCHEV), telephoned for more information on the recodification process, and Delegate Habeeb sent an email in support of selecting Title 8.01. It was noted that Ms. Nelson was in the audience, and the chair asked for her input. Ms. Nelson stated that SCHEV is currently looking at statutory provisions as they relate to SCHEV in response to Executive Directive No. 6. SCHEV plans to recommend an omnibus bill for the 2014 Session of the General Assembly to remove duplicative and obsolete provisions that are identified. In response to an inquiry as to other reasons Title 23 should be recodified, Tom Stevens, a Division of Legislative Services (DLS) attorney, stated that Title 23 lacks a definitions section, has a cumbersome and unwieldy numbering system, needs better organized school charter provisions, and needs one place for general language that applies to all universities.

After discussing the issue at length, the Commission decided to begin working on the recodification of Title 23 next year and to tentatively put Title 8.01 on the work plan for 2015.

## Code of Virginia Volume Update Project

Lilli Hausenfluck, Chief Editor, Division of Legislative Services

Ms. Hausenfluck explained that the Code of Virginia Volume Update Project is intended to make housekeeping changes to the Code of Virginia on a volume-by-volume basis, instead of making these types of changes in proposed legislation. Legislators sometimes find such housekeeping changes to be a distraction from a bill's main focus. Titles will be selected based on volumes that are expected to be replaced in the following year. Since it is expected that Volume 6 containing Title 33.1 will be replaced next year in anticipation of the completion of the Title 33.1 recodification, the Editing Office currently is reading Titles 34 through 37.2, the other titles in Volume 6. Only nonsubstantive changes consistent with the Commission's authority in § 30-149 of the Code of Virginia will be considered, including style, format, cross-references, agency names, and punctuation. Ms. Hausenfluck described the process as follows:

- Bill Crammé, the Deputy Director of DLS, will approve a list of the types of changes appropriate for the project.
- The DLS Editing Office will review a title and suggest appropriate changes within the scope of the project.
- DLS drafters familiar with the title content will review the changes to ensure none are of a substantive nature or beyond the scope of the project.
- Mr. Crammé will conduct a final review and approve or disapprove each change.

Mr. Palmore requested that a copy of the list of all types of changes to be made be sent to Commission members for review before starting the process.

### Obsolete Provisions

The Commission is mandated by § 30-151 of the Code of Virginia to identify obsolete provisions in the Acts of Assembly and Code of Virginia and to make recommendations, as appropriate, to the General Assembly. Although the statute requires this process to be conducted no less than every four years, the Commission generally conducts the study every two years and proposes legislation in even-numbered years.

The Virginia Code Commission will begin work on the recodification of Title 23 in 2014.

## Policy Decisions and Title Recodifications

The Commission agreed to Mr. Miller's suggestion to add to the work plan a review of policy decisions made by the Commission over the years related to title recodifications. Ms. Chaffin has compiled a list of these policies and will provide it to members for review and discussion at a future meeting.

*The Virginia Code Commission will review policy decisions made by the Commission over the years related to title recodifications.*

## Continued Work Plan Items

Ms. Chaffin advised that work plan items continued from last year are the recodification of Title 33.1, comparison of the Model State Administrative Procedure Act with Virginia's Administrative Process Act, and update of the Commission Regulations Implementing the Virginia Register Act. Also, the Boyd-Graves Conference and the Supreme Court of Virginia have agreed to the Commission's request for assistance in reviewing various Code of Virginia provisions concerning whether to add commercial delivery service as an option in certain provisions requiring delivery of notices by the U.S. Postal Service. This work will be monitored.

## Policy on Codification of Compacts

Ms. Chaffin referred the members to the policy on codifying compacts in their notebooks that was discussed at the May meeting. After discussion, the Commission approved the following policy: "Each compact will be assigned a code section number, depending on its proper title location. If a compact is general and permanent in nature, the compact will be set out in full in both the Code of Virginia and in the Compacts volume. Otherwise, the compact will be set out in full only in the Compacts volume, and the section number in the Code of Virginia will contain only a reference directing the reader to the Compacts volume. The Commission expresses its desire to place the full text of all compacts online for free public access."

## Administrative Law Advisory Committee

Chris Nolen, Chair, Administrative Law Advisory Committee

Mr. Nolen presented the Administrative Law Advisory Committee (ALAC) 2013 work plan for approval. Continuing studies include the

review of what constitutes the adoption of a regulation for the purposes of appealing the regulation, hearing officer deskbook updates, and Model State Administrative Procedure Act recommendations. A new study being considered is guidance document availability and dissemination from the public's standpoint. The work plan was adopted.

Mr. Nolen presented ALAC's proposed 2013-2014 budget for approval. The total amount requested is \$20,000 for meetings and related expenses, consultant and intern expenses, conferences and training, and publications and supplies. The budget was approved with the caveat that any expenditure related to consultants/interns would be made in consultation with the Director of the Division of Legislative Services.

## Recodification of Title 33.1: Highways, Bridges and Ferries

Nicole Brenner and Alan Wambold, Division of Legislative Services Staff

The Commission approved the new organization plan presented by Ms. Brenner, noting that the Chesapeake Bay Bridge and Tunnel District and Commission and the Northern Virginia Transportation Authority are not included on the agenda. Ms. Brenner and Mr. Wambold presented the following chapters:

- Eminent Domain.
- Highway Construction Contracts and Suits; Highway Contractors Association.
- Transportation Development and Revenue Bond Act.
- Local Transportation Districts.
- Transportation Districts within Certain Counties.
- U.S. Route 58 Corridor Development Fund and Program.
- Northern Virginia Transportation District Fund and Program.
- Transportation District within the City of Charlottesville and County of Albemarle.
- Charlottesville-Albemarle Regional Transit Authority.
- Richmond Metropolitan Authority.
- Washington Metropolitan Area Transit Regulation Compact.
- Washington Metropolitan Area Transit Authority Compact.

- Metropolitan Planning Organizations.
- Virginia Coalfield Coalition Authority. (Repeal)

The Commission discussed or took action on the Eminent Domain, Transportation Development and Revenue Bond Act, and Transportation Districts within Certain Counties chapters. The discussion can be viewed in its entirety on the Commission website.

## Virginia Administrative Code

Karen Perrine, Assistant Registrar,  
Virginia Register of Regulations

Ms. Perrine presented a mock-up proposed by West for the new Virginia Administrative Code covers. The main volumes will be a dark blue with gray print and the cumulative supplement volumes will be gray with blue print.

Also, pursuant to the Virginia Administrative Code Contract, Ms. Perrine advised the Commission that approval is needed when West replaces more than four volumes of the Virginia Administrative Code in any given year. West is recommending issuing five volumes this year as follows:

- Volume 1: Title 1 to 2VAC5-480.
- Volume 2: 2VAC5-490 to end of Title 3.
- Volume 3: 4VAC3-10 to 4VAC20-670.
- Volume 4: 4VAC20-680 to 4VAC25-130.
- Volume 5: 4VAC25-140 to end of Title 4.

The Commission approved the replacement of the five volumes.

## Next Meeting

The next meeting of the Commission will be on August 7, 2013, in Richmond.

## VIRGINIA CODE COMMISSION

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*The Virginia Code Commission heard an update of the Title 33.1 recodification.*

*For more information, visit study and commission websites. DLS staff members maintain comprehensive study and commission websites that contain complete summaries of meetings and links to additional information, handouts, and resources.*

# *Brown v. Board of Education* Scholarship Committee

June 19, 2013

The *Brown v. Board of Education* Scholarship Committee has awarded scholarships to 81 students over the past eight years.

The *Brown v. Board of Education* Scholarship Committee (Committee) held its first meeting of the 2013 interim in Richmond to reorganize due to the appointment of new legislative members. Senator Henry Marsh, III, vice chair, presided, and the election of a chair was deferred until the Committee's next meeting.

## Staff Report

Staff reviewed the history and statutory duties and responsibilities and policies of the Committee. The need to discuss matters pertaining to certain scholarship recipients and institutions in executive session was noted. State Council of Higher Education for Virginia Assistant Director for Financial Aid Lee Andes presented the fiscal report. He commented that 81 individual students, which include several who attended multiple institutions and graduate students, have been awarded scholarships from the *Brown v. Board of Education* Scholarship Program (Program) over the past eight years for a total of \$979,758.48. The balance remaining in the Fund is \$1,249,036.39.

## Review of Applications

Of the 38 applications received for the 2013-2014 academic year, 32 applicants were approved for awards by the Committee. Award letters will be sent to these persons and the approved educational programs in which they are enrolled by the end of July 2013. The remaining applicants were ineligible to receive an award due to failure to meet the scholarship criteria or submission of the application by the March 1 deadline.

July 15, 2013

## Election of Chair

The Committee met again on July 15, 2013, and elected Senator Louise Lucas chair of the Committee. Senator Marsh, presiding in her absence, called for the introduction of members and made preliminary remarks

concerning the work of the Committee and purpose of the meeting.

## Adoption of Amended Policies

A proposed amendment to the Committee's policies was adopted to be consistent with state law, which provides that when the scholarship funds are added to other gift aid, the award cannot produce a total of financial assistance that exceeds the annual total costs of tuition, fees, and the book allowance.

## Executive Session

The Committee voted to go into executive session, as permitted by subdivision 37 of § 2.2-3711 of the Code of Virginia, to discuss and consider matters pertaining to the Program excluded from public discussion under this section. Reconvening in open session, the Committee certified that only those matters permitted under subdivision 37 of § 2.2-3711 were discussed by the Committee in executive session.

## Next Meeting

The Committee agreed to meet again in November to plan and discuss the procedures for the 2014-2015 application cycle.

### **BROWN V. BOARD OF EDUCATION SCHOLARSHIP COMMITTEE**

**SENATOR LOUISE LUCAS, CHAIR**  
**BRENDA EDWARDS, DLS STAFF**

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# Small Business Commission

June 26, 2013

The Small Business Commission (Commission) held its second meeting of the 2013 interim in Richmond with Senator Frank Ruff, chair, presiding.

## HB 2198 (2013)

The Honorable Michael Watson, House of Delegates

Delegate Watson, the patron of HB 2198, discussed the legislation that would establish a procedure through which a Virginia business that is the subject of a commercial credit report may annually view a copy of the report upon request and at no cost. The business could obtain the details of any negative or disputed information and request its removal or correction by filing a summary statement of disagreement with the commercial credit reporting agency (CCRA).

Delegate Watson explained that CCRAs gather information on companies through various sources to compile a commercial credit report that is sold to third parties interested in the companies' financial health. Purchasers of the information include:

- Banks, to determine if they will loan money.
- Vendors, to determine if and at what costs they will set up credit terms.
- Potential customers, to assess the financial health of a company before deciding to do business with it.

Negative data puts small businesses in particular at risk of losing the critical ability to purchase goods and services, secure a loan, or obtain new customers.

Delegate Watson stated that the bill originated from a series of business town halls held by the Business Development Caucus in 2012. During these town halls, one of the most commonly identified problems was the reporting of erroneous negative data in commercial credit reports and the inability of the subject business to access or correct the data. Concerns also centered on predatory marketing practices involving credit monitoring services that contacted Virginia businesses, suggesting that negative information had recently been added to the credit report and

offering to work to resolve the issue for an additional fee.

The Honorable Christopher Head, House of Delegates

Delegate Head then addressed the Commission in support of the legislation. Delegate Head stated that as a small business owner he was concerned that there is no way to dispute negative information or to determine the source of the information.

The Honorable David Ramadan, House of Delegates

Delegate Ramadan, also a small business owner, addressed the Commission in support of the bill. He expressed his hope that the Commission would thoroughly review the issue and develop a solution that could result in legislation to provide relief to small businesses that were being adversely affected. In response to a question about why the Fair Credit Reporting Act (FCRA) did not include commercial credit reports, Delegate Watson responded that he did not know, but offered that perhaps businesses were thought to be in a better position to negotiate terms or conditions that would build in protections.

The chair then called for opposition to the bill.

Jacob Barron and James Wise, National Association of Credit Management

Mr. Wise spoke on behalf of the National Association of Credit Management (NACM), an organization of business credit and financial management professionals. Mr. Wise stressed that commercial credit professionals have the important responsibility of deciding whether to issue unsecured credit to businesses. He noted that while the FCRA only pertained to consumer credit, the Equal Credit Opportunity Act (ECOA) did include some protections by giving a business the right to know why it has been denied credit. Mr. Wise agreed that there were some dubious entities, but maintained that the solution was to go after such entities and to do so in a manner that would not impede the free flow of credit information. Delegate Watson explained that the recourse provided by the ECOA was the right to go to the bank and ask why credit was not extended, to which the bank could respond merely that

*Banks, vendors, and potential customers purchase information about companies from commercial credit reporting agencies.*

*In 2012, a total of 20.5 million commercial credit reference reports on Virginia businesses were submitted to Dunn & Bradstreet with approximately 249,000 unfavorable references.*

the credit score was too low. The ECOA, stated Delegate Watson, does not provide a path to resolving incorrect or fraudulent information contained in a credit report.

Mr. Barron, also representing NACM, then addressed the Commission. He stated that many businesses do not know how the commercial credit reporting business works. He asserted that any business could monitor its credit for free and that any reputable credit agency would seek to work out any problems or concerns with a report. He stated that the credit monitoring services, not the CCRAs, are involved in the questionable practices.

Mark Muckerman, Dunn & Bradstreet

Mr. Muckerman provided information about what would happen if the entity providing the credit reference would not change the information. He noted that the process used by the different credit reporting agencies would differ and proceeded to describe the process used by Dunn & Bradstreet (D&B). After the initial contact, a reinvestigation would be conducted at no cost. If the creditor is still reporting a delinquency, the agency would explore disclosing the source. If the reinvestigation resulted in one entity's word against another, his company would remove the information, noting that a lack of information is better than false or inaccurate information. Mr. Muckerman noted that in 2012 a total of 20.5 million commercial credit reference reports on Virginia businesses were submitted to D&B and of that number, roughly 249,000 references were unfavorable. A total of 3,200 of these references were reinvestigated, either upon the request of the business or on D&B's own initiative. Of that number, only approximately 320 involved situations where an actual correction or removal was made to the businesses' credit report.

Mr. Muckerman stated that incorrect information typically can be corrected in a matter of days. There is no legislative mandate to disclose who put the negative information on a business credit report; however, D&B's practice is to seek the permission of the person providing the reference. Mr. Muckerman noted that HB 2198 would impose regulation where none is appropriate or necessary, and it does not address the issues raised by the problematic marketing practices.

Mr. Muckerman answered several questions related to the processes used by D&B to generate and maintain commercial credit reports. He stated that the reports are used by

creditors (i) to determine whether they will allow a line of credit or (ii) as a part of a vendor evaluation process. In response to a question about why divulging the source of negative credit information was a problem, Mr. Muckerman stated that the reports are developed from a large network of voluntary participants. He also noted that the success of the reporting systems depends on the free flow of large volumes of information. The free flow of information depends on the protection provided by anonymity.

#### Other Comments

An individual representing a Virginia cement company then addressed the Commission. He indicated that his business uses the business credit reporting services to make decisions every day regarding whether or not to extend credit to a contractor to purchase concrete for ongoing jobs. He asserted that in 30 years in the business he has never been told that credit was denied based on a bad report. He asserted that businesses understood how the system works. The bill was seeking to put in place a legislative solution for something that was not a problem.

Jerome Moody spoke on behalf of Equifax. He stated that the confidentiality of the reporting entity was extremely important to the process. The reporting entities actually requested the confidentiality. He further stated that the procedure used by Equifax when dealing with complaints concerning negative credit report information is very similar to the one used by D&B.

A representative of the Goodwin Lumber Company also addressed the Commission in opposition to the legislation. He asserted that many companies depend on the reports and that the legislation would serve to restrict the free flow of information.

It was agreed that the parties work toward developing a solution. Commission members Owen Van Syckle and Robert Marcus volunteered to work with the group and report back to the Commission.

### **Joint Local Tax Study of the Small Business Commission and the Manufacturing Development Commission**

Amigo Wade, Senior Attorney, Division of Legislative Services

Mr. Wade provided a status update on the work of the Joint Local Tax Study conducted by

the Commission and the Manufacturing Development Commission (Joint Study). The Joint Study held its second meeting on June 14, 2013, in Virginia Beach. The meeting focused on hearing from specific business and government economic development agencies regarding how eliminating the machinery and tools tax may help to attract businesses to the Commonwealth and encourage current businesses to make reinvestment decisions. The Economic Development Department of the City of Virginia Beach discussed how the city's elimination of the machinery and tools tax has been used to attract a new business and encourage businesses currently located in the city to expand. A representative from STIHL, Inc., noted that local taxes are an important factor when developing a return on investment for purposes of selecting business locations. The next meeting of the Joint Study will be set based on member polling.

## Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act

Amigo Wade, Senior Attorney, Division of Legislative Services

Mr. Wade provided an update on the work of the Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act (Special Subcommittee), which held its initial meeting on May 14, 2013. The Special Subcommittee elected Delegate Chris Jones as chair and Senator Richard Stuart as vice chair. The chair discussed the proposed direction of the study and an initial work plan. It was determined that the first year of the study will be devoted to fact-finding and providing interested parties with the opportunity to share information and identify concerns related to the public procurement process. The information developed during this period will assist the Special Subcommittee in identifying the key areas where improvements may be made. The chair indicated that three additional meetings are anticipated for the first year. The second and third meetings will be focused on the receipt of public comment from interested parties. The fourth meeting of the first year will be held to identify those issues or concerns for which there is a general consensus that a problem exists and needs to be addressed. The second year of the study will then focus on working to resolve the identified issues in the context of achieving wide consensus on the

solutions that will ultimately be recommended. The chair further indicated that work groups may be established during this second year to deal with some of the more complicated issues. The ultimate goal of the Special Subcommittee's work is to develop recommendations for legislation for the 2015 Session.

The remainder of the first meeting served as an educational session for the Special Subcommittee members on the various aspects of public procurement, including the background of the VPPA and a primer on the fundamentals of public procurement by Maria Everett, a senior attorney with the Division of Legislative Services. The second meeting of the Special Subcommittee is scheduled for July 9, 2013, and will focus on receiving comment from the vendor community.

## Next Meeting

The next meeting of the Commission will be scheduled for September 10 or 11, 2013, with the time determined based on polling of the membership. Information will be posted on the Commission and General Assembly websites.

*The Small Business Commission heard comments that supported and opposed HB 2198 (2013), which would establish a procedure through which a Virginia business that is the subject of a commercial credit report may annually view a copy of the report upon request and at no cost.*

## SMALL BUSINESS COMMISSION

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# Virginia Sesquicentennial of the American Civil War Commission

July 8, 2013

The HistoryMobile  
has had more than  
75,000 visitors since  
its inception.

Speaker William Howell, chair, called the meeting of the Executive Committee of the Virginia Sesquicentennial of the American Civil War Commission (Commission) to order and welcomed those in attendance.

## Partnership with Richmond Symphony - "A Sesquicentennial Remembrance Concert"

David J. L. Fisk, Executive Director,  
Richmond Symphony

Mr. Fisk presented a proposal for a farewell concert, in partnership with the Commission and the Richmond Symphony, to be held on Memorial Day 2015. Envisioned as a capstone to Virginia's sesquicentennial commemoration, the concert will combine music, images, and narration in a profound exploration of the Civil War. As explained by Dr. Robertson:

*Because the Civil War gave rise to more music than any other four-year event in history, Johnny Rebs and Billy Yanks were singing soldiers. The strong emotions so much a part of that bloodiest of American wars followed a dramatic pattern. Enthusiastic melodies ("The Bonnie Blue Flag") combined with romantic airs ("The Yellow Rose of Texas") to produce an early, positive motivation. While gospel spirituals ("Go Down, Moses") expressed guarded hope for 3.5 million slaves, the fervor of army life in time melted into loneliness ("Home, Sweet Home") and despair ("Tenting Tonight on the Old Camp Ground"). Songs of praise modulated to emotions of hope ("When Johnny Comes Marching Home Again"). The war ended and the nation became whole, due in great part to some songs ("The Battle Hymn of the Republic") that will always be part of the national heritage we share.*

Mr. Fisk recommends a 150-voice choir and 75-piece orchestra for the program, which will begin with the national anthem and close

with a fitting finale. The concert will be held on Brown's Island, with the Carpenter Theatre on hold in the event of inclement weather. It will be presented free of charge, with pre-registration required. Staff will reserve venues, coordinate with partners, and seek potential donors to offset costs. The Executive Committee unanimously approved the proposal and asked Mr. Fisk to work closely with Commission staff as the program is developed.

## Civil War 150 HistoryMobile: Options Beyond 2015



Cheryl Jackson, Executive Director

Ms. Jackson, joined by senior tour manager Noelle Baker, discussed the tremendous success that the HistoryMobile has experienced since its tour began in July 2011 and offered options for the future. The HistoryMobile has been to over 100 events and had more than 75,000 visitors, 40 percent of whom are students. It has been named a Leadership in History Award of Merit winner by the American Association of State and Local History (AASLH). It is also a semi-finalist for consideration for the State Transformation in Action Recognition (STAR) program of the Southern Legislative Conference. Feedback has been overwhelmingly positive, as evidenced most recently by the many thanks and appreciative remarks of visitors at the 150th anniversary of the Battle of Gettysburg.

Originally, the HistoryMobile was envisioned to travel through Spring 2015. However, the work of the Commission will need to be extended for an additional year, through June 2016, to allow time to publish the final volume in the Signature Conference series and complete final reporting. No additional appropriations are needed for the extended year, as the Commission can operate with the carry-forward balances that it has saved. The HistoryMobile tour can similarly be extended for an additional year with no additional appropriations needed.

Once the tour ends, whether in 2015 or 2016, the Commission will need to decide on the final disposition of assets. Options include:

- Turning the tractor-trailer over to the Department of Motor Vehicles for conversion into a mobile customer service center.
- Locating exhibits and other assets to museums across the state.
- Continuing the HistoryMobile tour.
- Redesigning it for future use.

A motion passed unanimously to continue the HistoryMobile tour to 2016. The Executive Committee directed staff to determine which museums are interested in exhibit assets and tabled discussion of the ultimate disposition of the HistoryMobile until a future meeting.

## Approval of Logo Requests

Cheryl Jackson, Executive Director

Ms. Jackson reported that the Commission has approved a total of 211 logo requests since 2009. Following is a list of pending applications to affix the Commission's logo that have been given provisional authorization since the last meeting of the Executive Committee, in accordance with established procedure.

- Warren Heritage Society (Fliers for lecture by G. Ecelbarger).
- Warren Heritage Society (Fliers for lecture and tours by E. Bearss).
- Warren Heritage Society (Fliers for lecture by P. Farris).
- Fairfax County History Commission (Brochure).
- Fairfax County History Commission (Program).
- Blue Ridge Foothills Conservancy, Inc. (Newsletter).
- Fredericksburg Area Museum and Cultural Center (Website and press release).
- Brownsburg Museum (Banner).
- Pulaski County Sesquicentennial Committee (Fliers).

The Executive Committee unanimously passed a motion to give final approval to the logo applications.

## Next Meeting

The next meeting of the Executive Committee will be posted on the Commission and General Assembly websites as soon as information is available.



*The Virginia Sesquicentennial of the American Civil War Commission has approved a total of 211 logo requests since 2009.*

### VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION

**SPEAKER WILLIAM HOWELL, CHAIR  
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<http://www.virginiacivilwar.org>

# Meeting Calendar for August 2013

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**Virginia Bicentennial of the American War of 1812  
Commission/2014 Legacy Symposium  
Subcommittee**  
Brenda Edwards/Jeff Sharp

2:00 p.m., Monday, August 5, 2013—House Room C, GAB

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**JCOTS/Intellectual Property Advisory  
Committee**  
Lisa Wallmeyer

2:00 p.m., Tuesday, August 6, 2013—5th Floor West Conference  
Room, GAB

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**Virginia Code Commission**  
Jane Chaffin

10:00 a.m., Wednesday, August 7, 2013—6th Floor Speaker's  
Conference Room, GAB

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**JCOTS/Computer Crimes Advisory Committee**  
Lisa Wallmeyer

10:00 a.m., Wednesday, August 7, 2013—House Room C, GAB

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**Virginia Commission on Youth/Virginia  
Partnership for Out-of-School Time**

8:00 a.m., Monday, August 19, 2013—House Room 3, Capitol

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**Joint Meeting of House Appropriations, House  
Finance, and Senate Finance Committees**

9:30 a.m., Monday, August 19, 2013—House Room D, GAB

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**Virginia Freedom of Information Advisory  
Council/Rights and Remedies Subcommittee**  
Maria Everett/Alan Gernhardt

1:00 p.m., Tuesday, August 20, 2013—6th Floor Speaker's  
Conference Room, GAB

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**Commission on Unemployment Compensation**  
Frank Munyan

2:30 p.m., Tuesday, August 20, 2013—Senate Room A, GAB

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**JLARC/Interviews of Candidates for JLARC  
Director (Executive Session Only)/Public Session  
to Immediately Follow**

10:00 a.m., Wednesday, August 21, 2013—11th Floor Conference Room,  
GAB

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**Small Business Commission/HB 2198 (2013)  
Work Group**  
Amigo Wade

2:00 p.m., Thursday, August 29, 2013—3rd Floor East Conference  
Room, GAB

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

**Members of the General  
Assembly requesting multiple  
copies of Division of  
Legislative Services  
publications should email  
[mtanner@dls.virginia.gov](mailto:mtanner@dls.virginia.gov).**

## Meeting Calendar for September 2013

<b>Virginia State Crime Commission</b>	10:00 a.m., Tuesday, September 3, 2013—Senate Room A, GAB
<b>JLARC</b>	10:00 a.m., Monday, September 9, 2013—Senate Room A, GAB
<b>Commission on Electric Utility Regulation</b> Frank Munyan	2:00 p.m., Monday, September 9, 2013—Senate Room B, GAB
<b>Virginia Bicentennial of the American War of 1812 Commission</b> Brenda Edwards/Jeff Sharp	2:00 p.m., Wednesday, September 11, 2013—House Room C, GAB
<b>Virginia Freedom of Information Advisory Council</b> Maria Everett/Alan Gernhardt	1:30 p.m., Thursday, September 12, 2013—House Room C, GAB
<b>House Appropriations Committee</b>	9:30 a.m., Monday, September 16, 2013—9th Floor Appropriations Room, GAB
<b>Senate Finance Committee/ Public Safety Subcommittee</b>	Time TBD, Tuesday, September 17, 2013—Location TBD
<b>Joint Commission on Health Care/Behavioral Health Care Subcommittee</b>	Full Commission 10:00 a.m., Tuesday, September 17, 2013—Senate Room A, GAB Behavioral Health Care Subcommittee 1:00 p.m., Tuesday, September 17, 2013—Senate Room A, GAB
<b>JCOTS/Broadband and Education Advisory Committee and Identity Management Advisory Committee</b> Lisa Wallmeyer	Broadband and Education Advisory Committee 10:00 a.m., Tuesday, September 17, 2013—House Room D, GAB Identity Management Advisory Committee 1:00 p.m., Tuesday, September 17, 2013—3rd Floor East Conference Room, GAB
<b>Virginia Commission on Youth</b>	1:00 p.m., Tuesday, September 17, 2013—House Room C, GAB
<b>Virginia Code Commission</b>	10:00 a.m., Wednesday, September 18, 2013—6th Floor Speaker's Conference Room, GAB
<b>Joint Study of Local Tax Structure (Manufacturing Development Commission and Small Business Commission)</b>	10:00 a.m., Wednesday, September 18, 2013—Stafford
<b>Virginia Housing Commission/Housing and Environmental Standards Work Group</b> Elizabeth Palen	Full Commission 10:00 a.m., Wednesday, September 18, 2013—House Room C, GAB Housing and Environmental Standards Work Group 2:00 p.m., Wednesday, September 18, 2013—Senate Room A, GAB
<b>JCOTS/Cyber Security Advisory Committee</b> Lisa Wallmeyer	1:00 p.m., Wednesday, September 18, 2013—House Room C, GAB
<b>Senate Finance Committee</b>	9:30 a.m., Thursday, September 19, 2013—10th Floor Meeting Room, GAB
<b>Senate Finance Committee/Education Subcommittee</b>	8:00 a.m., Thursday, September 26, 2013—Newport News

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

## 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 this section of the *Virginia Legislative Record* will assist members as they monitor the development, modification, and repeal of administrative rules in the Commonwealth. Access the *Virginia Register of Regulations* online at <http://register.dls.virginia.gov> or contact the Code Commission staff at (804) 786-3591 for further information.

#### **TITLE 2. AGRICULTURE BOARD OF AGRICULTURE AND CONSUMER SERVICES**

**2VAC5-317. Regulations for the Enforcement of the Noxious Weeds Law (adding 2VAC5-317-10 through 2VAC5-317-100).**

Written public comments may be submitted until September 13, 2013.

##### Summary:

*The proposed regulation seeks to eradicate, suppress, and prevent the dissemination of noxious weeds in the Commonwealth by (i) establishing a two-tier list of plants deemed by the Board of Agriculture and Consumer Services to be noxious weeds, (ii) prohibiting the movement of noxious weeds or articles capable of transporting noxious weeds into or within the Commonwealth, and (iii) identifying eradication activities for certain noxious weeds.*

For more information, please contact Erin Williams, Policy and Planning Coordinator, Department of Agriculture and Consumer Services, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, TTY (800) 828-1120, or email [erin.williams@vdacs.virginia.gov](mailto:erin.williams@vdacs.virginia.gov).

#### **TITLE 8. EDUCATION STATE BOARD OF EDUCATION**

**8VAC20-740. Regulations Governing Nutritional Guidelines for Competitive Foods Sold in the Public Schools (adding 8VAC20-740-10 through 8VAC20-740-40).**

A public hearing will be held on October 24, 2013, immediately following adjournment of the 11 a.m. Board of Education business meeting at the James Monroe Building in Richmond. Written public comments may be submitted until October 31, 2013.

##### Summary:

*Consistent with Chapter 718 of the 2010 Acts of Assembly and the core nutrition components in the Institute of Medicine’s nutrition standards for competitive foods in schools, the proposed regulations set nutritional standards for competitive foods sold to students in the areas of calorie, fat, sugar, and sodium content, and foods of minimal nutritional value.*

For more information, please contact Catherine Digilio-Grimes, Director of School Nutrition Programs, Department of Education, Richmond, VA 23218, telephone (804) 225-2074, or email [catherine.digilio-grimes@doe.virginia.gov](mailto:catherine.digilio-grimes@doe.virginia.gov).

#### **TITLE 9. ENVIRONMENT STATE WATER CONTROL BOARD**

REGISTRAR’S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**9VAC25-151. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity (amending 9VAC25-151-10, 9VAC25-151-20, 9VAC25-151-40, 9VAC25-151-50, 9VAC25-151-60, 9VAC25-151-70, 9VAC25-151-80, 9VAC25-151-90, 9VAC25-151-110,**



9VAC25-151-120, 9VAC25-151-130, 9VAC25-151-140,  
9VAC25-151-150, 9VAC25-151-160, 9VAC25-151-170,  
9VAC25-151-180, 9VAC25-151-190, 9VAC25-151-200,  
9VAC25-151-210, 9VAC25-151-220, 9VAC25-151-230,  
9VAC25-151-240, 9VAC25-151-250, 9VAC25-151-260,  
9VAC25-151-270, 9VAC25-151-280, 9VAC25-151-290,  
9VAC25-151-300, 9VAC25-151-310, 9VAC25-151-320,  
9VAC25-151-330, 9VAC25-151-340, 9VAC25-151-350,  
9VAC25-151-370; adding 9VAC25-151-15; repealing  
9VAC25-151-65).

A public hearing will be held on August 29, 2013, at 3 p.m. at the Department of Environmental Quality in Glen Allen. Written public comments may be submitted until September 13, 2013.

Summary:

*This proposed regulatory action reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) Industrial Activity Storm Water General Permit (VAR05) that expires on June 30, 2014, and is based primarily on the U.S. Environmental Protection Agency's (EPA's) 2008 final Multi-Sector General Permit (MSGP). The general permit establishes permit conditions and monitoring requirements for point source discharges of storm water associated with industrial activity to surface waters. The general permit regulation is reissued to make it available for these facilities to continue to discharge and will be effective for five years beginning July 1, 2014, and expiring June 30, 2019.*

For more information, please contact Burton R. Tuxford, Department of Environmental Quality, Richmond, VA 23218, telephone (804) 698-4086, FAX (804) 698-4032, TTY (804) 698-4021, or email burton.tuxford@deq.virginia.gov.

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (amending 9VAC25-190-10, 9VAC25-190-20, 9VAC25-190-50, 9VAC25-190-60, 9VAC25-190-70; adding 9VAC25-190-15; repealing 9VAC25-190-65).**

A public hearing will be held on August 29, 2013, at 1:30 p.m. at the Department of Environmental Quality in Glen Allen. Written public comments may be submitted until September 13, 2013.

Summary:

*The proposed amendments reissue the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on June 30, 2014. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from nonmetallic mineral mining to surface waters. The general permit regulation is being reissued in order to continue making it available for these facilities to continue to discharge, and it will remain effective for five years beginning July 1, 2014, and expiring June 30, 2019.*

For more information, please contact Elleanore M. Daub, Department of Environmental Quality, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, TTY (804) 698-4021, or email elleanore.daub@deq.virginia.gov.

## TITLE 12. HEALTH STATE BOARD OF HEALTH

**12VAC5-510. Guidelines for General Assembly Nursing Scholarships (amending 12VAC5-510-10 through 12VAC5-510-70; adding 12VAC5-510-15, 12VAC5-510-80 through 12VAC5-510-110).**

Written public comments may be submitted until September 13, 2013.

Summary:

*The proposed amendments (i) allow the nursing program scholarship recipient up to 180 days after graduation before having to report on the status of full-time or part-time employment in the Commonwealth; (ii) add longstanding elements of the contract signed by the scholarship recipient to the regulations for clarity; and (iii) change the definition of full-time employment from 40 hours per week to 32 or more hours per week to be consistent with industry standards.*

For more information, please contact Michael Royster, M.D., Director, Office of Minority Health and Health Equity, Department of Health, Richmond, VA 23219, telephone (804) 864-7435, FAX (804) 864-7440, or email michael.royster@vdh.virginia.gov.

## TITLE 14. INSURANCE STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**14VAC5-280. Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements (amending 14VAC5-280-10, 14VAC5-280-30, 14VAC5-280-40, 14VAC5-280-70).**

**14VAC5-290. Rules Establishing Standards for Companies Deemed to Be in Hazardous Financial Condition (amending 14VAC5-290-30).**

Written public comments may be submitted until August 6, 2013.

Summary:

*Chapter 539 of the Acts of Assembly of 2012 incorporated revisions made to the National Association of Insurance Commissioners' Credit for Reinsurance Model Law that reformed the treatment of reinsurance transactions, including allowing for the certification of reinsurers. The proposed amendments to 14VAC5-280 and 14VAC5-290 conform the regulations to those changes by (i) adding health maintenance organizations to the definition of "life and health business" and (ii) deleting references to and provisions based on § 38.2-1316.3 or 38.2-1316.6 of the Code of Virginia, which were repealed by Chapter 539.*

For more information, please contact Raquel Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, State Corporation Commission, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, or email raquel.pino-moreno@scc.virginia.gov.

**REGISTRAR'S NOTICE:** The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**14VAC5-50. Rules Governing New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities (amending 14VAC5-50-10 through 14VAC5-50-50; adding 14VAC5-50-35).**

A public hearing will be scheduled upon request. Written public comments may be submitted until August 20, 2013.

Summary:

*The proposed amendments address the National Association of Insurance Commissioners' December 2012 adoption of the revised Model Rule for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities. The revised model adds the 2012 Individual Annuity Reserving Mortality Table (2012 IAR Mortality Table). The proposed amendments include (i) adding the 2012 IAR Mortality Table to the list of recognized mortality tables; (ii) adding definitions for Period Table, Generational Mortality Table, 2012 IAR Mortality Table, 2012 IAM Period Table, and Projection Scale G2; and (iii) establishing when and how the 2012 IAR Mortality Table may be used. The proposed effective date is January 1, 2014.*

For more information, please contact Raquel Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, State

Corporation Commission, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, or email raquel.pino-moreno@scc.virginia.gov.

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

### **BOARD OF LONG-TERM CARE ADMINISTRATORS**

**18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators (amending 18VAC95-30-130, 18VAC95-30-150, 18VAC95-30-180, 18VAC95-30-190; adding 18VAC95-30-201; repealing 18VAC95-30-95).**

Written public comments may be submitted until August 30, 2013.

Summary:

*The proposed amendments require (i) identification to the public that the acting administrator of an assisted living facility is an administrator-in-training, (ii) that the preceptor responsible for appropriate oversight of the acting administrator be present in the facility for training on a regular basis (at least two hours per week), and (iii) that survey visit reports for the facility become part of the administrator-in-training reports.*

For more information, please contact Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, Richmond, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email ltc@dhp.virginia.gov.

### **REAL ESTATE BOARD**

**18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-10 through 18VAC135-20-45, 18VAC135-20-60, 18VAC135-20-70, 18VAC135-20-80, 18VAC135-20-101, 18VAC135-20-120, 18VAC135-20-140 through 18VAC135-20-240, 18VAC135-20-260 through 18VAC135-20-310, 18VAC135-20-360; adding 18VAC135-20-55, 18VAC135-20-165, 18VAC135-20-225; repealing 18VAC135-20-100, 18VAC135-20-105).**

A public hearing will be held on August 7, 2013, at 9 a. m. at the Department of Professional and Occupational Regulation in Richmond. Written public comments may be submitted until August 30, 2013.

Summary:

*The proposed amendments (i) incorporate statutory voluntary audit and compliance procedures (Chapters 373 and 637 of the Acts of Assembly of 2010), (ii) require a reciprocity licensee to pass the board's written examination within 12 months prior to applying for a license (Chapters 373 and 637 of the Acts of Assembly of 2010), (iii) require initial license applicants to submit to fingerprinting (Chapter 667 of the Acts of Assembly of 2009), (iv) allow a licensee to carry over excess continuing education credits into the next renewal period (Chapter 750 of the*

*Acts of Assembly of 2012), (v) allow a broker to downgrade his license to that of a salesperson, (vi) remove the \$90 cap on the license examination fee, (vii) require that a proprietary school applicant demonstrate a minimum net worth, (viii) offer more options to qualify for prelicense instructor certification, (ix) change requirements for maintenance and management of financial records and amend the list of actions that constitute improper dealing (Chapter 461 of the Acts of Assembly of 2011), and (x) change the requirements for maintenance and management of escrow accounts (Chapter 181 of the Acts of Assembly of 2010).*

For more information, please contact Christine Martine, Executive Director, Real Estate Board, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email [reboard@dpor.virginia.gov](mailto:reboard@dpor.virginia.gov).

## **BOARD FOR PROFESSIONAL SOIL SCIENTISTS, WETLAND PROFESSIONALS, AND GEOLOGISTS**

**18VAC145-20. Professional Soil Scientists Regulations (amending 18VAC145-20-10, 18VAC145-20-60, 18VAC145-20-90, 18VAC145-20-91, 18VAC145-20-100, 18VAC145-20-120, 18VAC145-20-130, 18VAC145-20-140, 18VAC145-20-151, 18VAC145-20-160, 18VAC145-20-170; adding 18VAC145-20-145; repealing 18VAC145-20-70, 18VAC145-20-111).**

A public hearing will be held on August 7, 2013, at 10 a. m. at the Department of Professional and Occupational Regulation in Richmond. Written public comments may be submitted until August 30, 2013.

### Summary:

*The proposed amendments facilitate the requirements of Chapters 777 and 859 of the 2011 Acts of Assembly that the soil scientist regulation program transition from certification to licensure and also include the following changes: (i) the board's adoption of the Council of Soil Science Examiners prepared exam, (ii) addition of continuing education requirements for the renewal and maintenance of licensure, and (iii) technical changes to eliminate language in the regulation that duplicates existing language in corresponding statutes and to clarify and improve the readability of the regulations.*

For more information, please contact Kathleen R. Nosbisch, Executive Director, Board for Professional Soil Scientists, Wetland Professionals, and Geologists, Richmond, VA 23233, telephone (804) 367-8514, FAX (866) 465-6206, or email [bpssandwp@dpor.virginia.gov](mailto:bpssandwp@dpor.virginia.gov)

**18VAC145-40. Regulations for the Geology Certification Program (amending 18VAC145-40-20).**

A public hearing will be held on August 7, 2013, at 11 a. m. at the Department of Professional and Occupational Regulation in Richmond. Written public comments may be submitted until August 30, 2013.

### Summary:

*The proposed amendments increase the application, renewal, and reinstatement fees for professional geologists and align the fees with those of professional soil scientists and wetland professionals.*

For more information, please contact Kathleen R. Nosbisch, Executive Director, Board for Professional Soil Scientists, Wetland Professionals, and Geologists, Richmond, VA 23233, telephone (804) 367-8514, FAX (866) 465-6206, or email [bpssandwp@dpor.virginia.gov](mailto:bpssandwp@dpor.virginia.gov).

## **TITLE 22. SOCIAL SERVICES**

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

**22VAC40-880. Child Support Enforcement Program (amending 22VAC40-880-10, 22VAC40-880-20, 22VAC40-880-90, 22VAC40-880-100, 22VAC40-880-190, 22VAC40-880-240, 22VAC40-880-250, 22VAC40-880-290, 22VAC40-880-320, 22VAC40-880-350, 22VAC40-880-380, 22VAC40-880-390, 22VAC40-880-405, 22VAC40-880-410, 22VAC40-880-430, 22VAC40-880-440, 22VAC40-880-480, 22VAC40-880-560; repealing 22VAC40-880-30 through 22VAC40-880-80, 22VAC40-880-110 through 22VAC40-880-180, 22VAC40-880-200, 22VAC40-880-210, 22VAC40-880-220, 22VAC40-880-230, 22VAC40-880-260, 22VAC40-880-270, 22VAC40-880-280, 22VAC40-880-300, 22VAC40-880-310, 22VAC40-880-330, 22VAC40-880-340, 22VAC40-880-360, 22VAC40-880-370, 22VAC40-880-385, 22VAC40-880-420, 22VAC40-880-450, 22VAC40-880-460, 22VAC40-880-470, 22VAC40-880-490 through 22VAC40-880-550, 22VAC40-880-570 through 22VAC40-880-720).**

Written public comments may be submitted until August 30, 2013.

### Summary:

*The proposed amendments (i) update terminology, (ii) allow appeal of a social services hearing officer's decision on passport denial to the circuit court, (iii) remove specific language that currently governs case prioritization and replace it with a general notice that the department has the authority to prioritize cases based on available information, (iv) update language to reflect statutory changes, and (v) repeal numerous sections that are duplicative of state and federal law and federal regulations.*

For more information, please contact Alice Burlinson, Senior Assistant Attorney General, Department of Social Services, Roanoke, VA 24018, telephone (540) 776-2779, FAX (540) 776-2797, or email [alice.burlinson@dss.virginia.gov](mailto:alice.burlinson@dss.virginia.gov).

# *Division of Legislative Services*

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