

# Virginia Legislative Record

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## SJR 96: Comprehensive Services Act and the At-Risk Youth and Families Program

October 31, 2006

SJR 96 establishes the joint subcommittee to study the cost effectiveness of the Comprehensive Services Act (CSA) and Comprehensive Services for At-Risk Youth and Families Program (Program) and to collaborate with JLARC regarding its evaluation of the administration of the Comprehensive Services Act.

The study will be conducted in two phases. In the first phase of the study, during the 2006 interim, the joint subcommittee and JLARC will:

- Review the administration of the CSA by state and local governments, including projections of caseloads, service needs and costs, and quality of services provided.
- Make recommendations for improvement of program services and strategies for cost containment.
- JLARC is charged by HJR 60 with completing a comprehensive study of the CSA and the Program.

During the second phase of the study in the 2007 interim, JLARC will brief the joint subcommittee regarding its findings and will assist the joint subcommittee in developing recommendations relative to collective findings and assessments regarding the administration of the CSA and the cost effectiveness of the Program.

The joint subcommittee will ultimately develop appropriate recommendations in consultation with JLARC. Throughout the process, the joint subcommittee and JLARC will work collaboratively to minimize duplication and fragmentation.

### Presentations

**Kim McGaughey - Executive Director, Office of Comprehensive Services**

Ms. McGaughey presented an overview of Virginia's Comprehensive Services Act and Comprehensive Services for At-Risk Youth and Families Program. Ms. McGaughey discussed the impetus for the CSA and the CSA statutory framework. She then provided overview of the demographics of the population served, the services provided, and annual program expenditures. Additionally, Ms. McGaughey discussed major challenges faced by the CSA and the Comprehensive Services for At-Risk Youth and Families Program. These included ensuring access to appropriate community services and creating an array of community services. Ms. McGaughey offered several key initiatives intended to meet these challenges, including:

- Expanding community expertise in serving children with serious emotional and behavioral problems.
- Expanding service in families, schools and communities to prevent placements in more restrictive settings.
- Returning children from residential placements, or keeping children out of residential placements, who can be served effectively in homes, schools, and communities.
- Eliminating the need for families to relinquish custody of children in order to access behavioral health services.
- Creating a system of care for "mandated" and "nonmandated" children, regardless of which agency "door" they walk through.
- Improving results and performance accountability with CSA by implementing performance measures, strengthening the role of Community Policy and Management teams, and increasing CSA administrative funds for communities.

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

**Dr. Brian Meyer - Executive Director, Virginia Treatment Center for Children and Chairman, Child and Family Behavioral Health Policy and Planning Committee**

Dr. Meyer gave a presentation that identified the strengths, as well as the problems associated with the CSA and offered six specific recommendations.

The joint subcommittee will ultimately develop appropriate recommendations in consultation with JLARC. Throughout the process, the joint subcommittee and JLARC will work collaboratively to minimize duplication and fragmentation.

### CSA Strengths

- Pools funds to serve children.
- Develops systems of care where services and providers work together to help troubled and at-risk children and their families.
- Provides that local community teams decide what is best for their children.
- Provides flexible use of funds, allowing children to receive services that public and private insurance coverage does not fund.

### Problems Associated with the CSA

- The CSA does not serve much of its target population.
- The current funding formula, created in 1994 and based on locality population and need, as measured by poverty, creates inequity.
- Insufficient community-based and intermediate-level services, with too great reliance upon residential care.

### Recommendations

- The Office of Comprehensive Services should continue to work to return CSA to its original intent of serving troubled and at-risk children.
- The Office of Comprehensive Services should officially eliminate the distinction between mandated and nonmandated children.
- The General Assembly should require that the CSA funding formula be recalculated after each decennial census.
- The General Assembly should provide an amount equal to 2.5% of total CSA expenditures to help start up new community-based services, particularly intermediate-level services.
- The General Assembly should authorize the Office of Comprehensive Services to use CSA funds flexibly to help start up new community-based services (for example, to allow several communities to pool their funds to start up a service that none could have individually).
- The General Assembly should fund four child psychiatry fellowship and four child psychology internship slots with payback provisions to work in underserved areas in Virginia at a cost of \$493,000 annually.

**Nathalie Molliet-Ribet - Joint Legislative Audit and Review Commission.**

Ms. Molliet-Ribet presented an overview of the Joint Legislative Audit and Review Commission's study of children's residential services delivered through the comprehensive services act, pursuant to House Joint Resolution 60 and in conjunction

with the joint subcommittee pursuant to Senate Joint Resolution 96. Ms. Molliet-Ribet discussed the scope, activities and topics of the final report, which will be released on December 11, 2006, at 9:00 a.m.

Data for the study was collected through site visits to 17 localities; surveys of every local CSA coordinator, every local Community and Policy Management Team, case managers of 360 CSA participants and all Virginia residential providers; site visits and meetings with residential providers, financial analyses of residential facilities; and analyses of licensing compliance data and residential program characteristics. The final report will include findings and recommendations related to:

- Factors affecting residential expenditures, including availability of lower cost, community-based alternatives to residential care, adequacy of local infrastructure to secure the most cost effective services, and effectiveness of markets in controlling rates of residential facilities;
- Adequacy of licensing standards or regulatory enforcement, to ensure that quality services are provided, including the adequacy of licensing standards to ensure health and safety of children and the effectiveness of regulatory agencies in enforcing compliance with licensing standards;
- Importance of tracking child outcomes, including current availability of information to measure the impact of the CSA program.

## Next Meeting

The next meeting of the joint subcommittee will be held on December 11, 2006, in Richmond.

SJR 96

*Joint Subcommittee Studying the Comprehensive Services Act and At-Risk Youth & Families Program*

Senator Emmett W. Hanger, Jr., Chair

Sarah Stanton and Ellen Weston, DLS Staff  
(804) 786-3591

study website

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

# House HWI COPN Task Force

October 25, 2006

November 14, 2006

The second meeting of the House of Delegates Health, Welfare, and Institutions Certificate of Public Need (COPN) Task Force was held in Richmond.

The task force was established to review past Joint Commission on Health Care COPN studies, the 2004 Federal Trade Commission/Department of Justice Report on COPN, relevant information on COPN in other states; examine the role of the local Health Service Agencies (HSA) in the COPN process; and receive input from interested stakeholders as to the needed changes in Virginia's COPN law or regulatory process.

## Status of COPN Programs in Other States

Staff made a presentation on the current status of Certificate of Need programs in other states. Thirty-six states and the District of Columbia were found to have Certificate of Need programs currently in effect. Fourteen states have repealed Certificate of Need laws since the 1980s. These programs were found to vary widely in nature and scope, making comparisons and generalizations difficult. Moreover, the fact that record-keeping systems and other measurement devices were eliminated along with the programs make analysis of states' post Certificate of Need experiences difficult.

## Public Comment

During the public comment period, several interested parties spoke about issues related to the COPN program, and recommendations for revising or improving the program. Major issues included the cost of the program, including additional time spent in organizing and processing applications and legal fees; the impact of for-profit versus not-for-profit status; ability to provide for indigent care; and variation in the COPN application process by region across the state with the potential need for a more detailed reporting process. Suggestions and recommendations offered by the speakers included:

- Reconsidering the efficiency and effectiveness of the local review process.
- Assessing the value of an electronic application process.
- Regularly assessing the COPN with regard to technology.

The task force held its third meeting on November 14, 2006, with Delegate Purkey as chair. Four speakers were invited to the session to provide information regarding Virginia's Hospitals and Certificate of Public Need (COPN) in the Commonwealth.

## Presentations

### Financial Status of Virginia's Hospitals

#### Dick Walker - Virginia Health Information (VHI)

Mr. Walker gave a presentation on the financial status of selected hospitals in Virginia. VHI is a nonprofit, public/private partnership charged with collecting, analyzing and disseminating health care data for the purpose of promoting informed decision-making by Virginia consumers and purchasers and enhancing the quality of health care delivery within the state. VHI works through contracts with the State Health Commissioner, private organizations and sales and service entities. The organization ranks health care providers on a number of indicators, including financial data. COPN licensure survey data was added in 1998. Mr. Walker discussed net worth trends, asset trends, income trends, profit margins trends and total margin trends in Virginia hospitals.

### Strategic Health Care Trends

#### Frederick Hessler - Managing Director, Health Care Group

Frederick Hessler, Managing Director, Health Care Group, Citigroup, gave a presentation on strategic health care trends in the United States, as well as discussed the major environmental trends that will affect health care over the next 3 to 5 years, including pressure on payment sources, slowing and shifting demands, quality and patient safety initiatives, increasingly competitive forces, resource constraints and escalating headline risks. Mr. Hessler also presented information drawn from a study facilitated by Citigroup, evaluating health care provider performance for approximately one quarter of all U.S. hospitals. Mr. Hessler concluded that while margins are improving overall, the scale of health care systems appears to be driving the strongest results. Further, the

*Major issues heard during public comment included the cost of the program; the impact of for-profit versus not-for-profit status; ability to provide for indigent care; and variation in the COPN application process by region across the state with the potential need for a more detailed reporting process.*

study found, scale affects supply costs of hospitals, generates a cost of capital advantage and may create a sustainable advantage for health care systems, allowing the provider to achieve pricing leverage and revenue diversification, and to manage resource constraints.

For-Profit vs. Not-For-Profit

**Mark Haskins, Virginia Department of Taxation**

Mr. Haskins, offered a comparison of nonprofit and for-profit status for hospitals, including state and federal income tax treatment, charitable purpose exceptions, and sales and use exemptions.

Recommendations Regarding Changes to Certification of Public Need Laws

**Eric Bodin, Director of the Virginia Department of Health's COPN Program**

Mr. Bodin offered specific recommendations regarding Virginia's Certificate of Public Need laws. These recommendations can be viewed in

their entirety on the COPN study website, at <http://dls.state.va.us/GROUPS/COPN/meetings/111406/materials.htm>.

## Next Meeting

The next meeting of the HWI Certificate of Public Need task force will be held December 15, 2006, in Richmond.

### *House Health, Welfare and Institutions Certificate of Public Need Task Force*

**Delegate Harry R. Purkey, Chair**

Sarah Stanton and Ellen Weston, DLS Staff  
(804) 786-3591

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

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

*The next step in the U.S. Route 460 process would be appointment of an advisory committee by the Secretary of Transportation to hear from the proposers, VDOT staff, and the public, before making a final recommendation.*

## U. S. Route 460 Communications Committee

**November 1, 2006**

The meeting of the U.S. Route 460 Communications Committee, chaired by Delegate Wardrup, was held on November 1, 2006, at the Virginia Department of Transportation, Hampton Roads Construction District Headquarters, in Suffolk.

### Preferred Route and Proposals

Richard Walton of the Department of Transportation (VDOT) provided the members with additional background on the selection of preferred alignment of the route by the Commonwealth Transportation Board (CTB), as well as an updated briefing on proposals received for the U.S. Route 460 Project.

There were questions from the members regarding CTB's decision preferring an alignment that left railway rights-of-way between the proposed alignment and existing communities in the corridor. Mr. Walton explained that costs associated with providing railroad crossings connecting these communities with the proposed new facility had not been considered part of the proposed project. He also discussed with the members the purpose of planning and designing corridors and provided the committee with cost projections for the project.

Three proposals for the U.S. Route 460 project submitted to VDOT under the Public-Private Transportation Act of 1995 (PPTA) were discussed in detail. Construction of the project would involve a sharing of costs between the public and private sector, with a toll rate consistent with the findings of an earlier toll-feasibility study for the corridor and a discounted toll rate for residents within the corridor. Mr. Walton pointed out that at least one of the three proposals involved tolling of facilities presently not subject to tolls and that a lack of tolls would increase the public costs of the project.

The next step in the process would be appointment of an advisory committee by the Secretary of Transportation to hear from the proposers, VDOT staff, and the public, before making a final recommendation.

### Metropolitan Planning Organizations

Mr. Walton also spoke to the role of metropolitan planning organizations (MPOs) in highway construction planning.

Arthur Collins, Executive Director of the Hampton Roads Planning District Commission and a member of the committee spoke on the specifics of the Hampton Roads MPO.

Mayor of Norfolk, Paul D. Fraim, who is also the chair of the Hampton Roads Planning District Commission, spoke on the rationale for the decision by the Hampton Roads MPO to defer the U.S. Route 460 project. The MPO felt it could not move forward with the project without specific assurances of additional revenues from the Commonwealth sufficient to comply with federal requirements that the MPO's transportation improvement be fully "fiscally constrained."

Several members suggested that the MPO's estimate of the maximum amount of toll that could optimally be imposed for use of an improved U.S. Route 460 facility might be too conservative, and that it would be helpful if both VDOT and the MPO maintained closer and more informative contacts with the committee and the General Assembly in the future.

Mayor Fraim assured the members that, as the consideration and refinement of the proposals for the U.S. Route 460 project move forward, the MPO

could amend its transportation improvement plan to include improvements in the U.S. Route 460 corridor.

## Next Meeting

When the date of the next meeting of the U.S. Route 460 Communications Committee is scheduled, information will be posted on the General Assembly website.

HJR 75

*U.S. Route 460*

*Communications Committee*

Delegate Leo C. Wardrup, Jr., Chair

Alan Wambold and Stephanie Bishop, DLS Staff

(804) 786-3591

[study website](http://dls.state.va.us/RT460.HTM)

<http://dls.state.va.us/RT460.HTM>

## HJR 133/SJR 94: Open-Space Land and Farmlands

November 28, 2006

The Joint Subcommittee Studying Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands held its third meeting on November 28, 2006, with Senator Emmett W. Hanger, Jr., as chair and Delegate Lynwood W. Lewis, Jr., as vice chair.

### Speakers

**Larry Smith - Natural Area Program Manager, Natural Heritage Program, DCR**

Land Conservation Data Collection

Mr. Smith stated the mission of the Department of Conservation and Recreation (DCR is identifying, protecting, and conserving Virginia's biological diversity. He discussed Governor Kaine's goal of protecting 400,000 acres of land. In keeping with this goal, Virginia has protected 65,763 acres of land in fiscal year 2006 and 15,084 acres of land since July 1, 2006. Mr. Smith concluded that the Commonwealth must protect 319,153 acres of land to achieve the Governor's goal of protecting 400,000 acres of land.

Conservation Lands Website

Mr. Smith demonstrated access and use of the DCR Conservation Lands Database, which is the Commonwealth's "first comprehensive, continually maintained GIS data layer for Virginia's protected

conservation lands." The database includes mapped boundaries and attributes for public and certain private lands in Virginia that have potential significance for serving a variety of conservation, recreation, and open-space roles. The DCR website user also has the ability to display the location of protected lands. The URL for the DCR Conservation Lands Database is: <http://www.dcr.virginia.gov/dnh/conslandindex>.

Land Conservation Planning

Mr. Smith discussed how land conservation planning is furthered by DCR's reporting requirements and its designated categories for biodiversity management.

**Pat O'Connell - President, Evergreen Capital Advisors**

Mr. O'Connell delivered a presentation entitled "Financing Land Preservation in the Commonwealth of Virginia," which proposed three "tools in [the] local preservation toolbox."

- A locality may acquire loans or issue bonds and use the proceeds of such loans or bonds to pay cash at closing to the owner of the land over which the locality acquired fee simple or a permanent easement. This "tool" is somewhat problematic, however, because a county, which generally contains the desirable land for preservation because of its rural characteristics, is constitutionally forbidden to contract debt (e.g., acquire loans;

*A presentation was given on DCR's Conservation Lands Database, which is the Commonwealth's "first comprehensive, continually maintained GIS data layer for Virginia's protected conservation lands" and serves a variety of conservation, recreation, and open-space roles.*

*In a resolution to reauthorize the study, the joint subcommittee formally agreed to recommend funding for the Office of Farmland Preservation and the Virginia Farm Link program, as well as a start-up appropriation in 2007 for a statewide purchase of development rights program.*

issue bonds) for land preservation purposes unless the county first obtains voter approval at a referendum.

- A locality may enter into installment purchase agreements. An installment purchase agreement (IPA) is a contract between the buyer (i.e., locality) and the landowner. Under the IPA, the buyer promises to buy the land or an easement thereon for land preservation purposes. Moreover, the buyer agrees to pay the purchase price of the land or easement at the end of the IPA term, which does not exceed 30 years. Furthermore, the buyer promises to pay semiannual tax-exempt interest during the term of the IPA. The benefits to landowner are manifold. Namely, a landowner who enters into an IPA with a locality may (1) use the cash to pay the estate tax, (2) deduct the charitable contribution discount from 100% of income for up to 16 years, (3) sell the IPA to bond investors for cash prior to maturity, (4) receive tax-exempt interest on full sale price, and (5) defer capital gains tax associated with the land/easement purchase over his land. Currently, the City of Virginia Beach enters into IPAs with land owners for land preservation purposes. Mr. O'Connell also stated that the City of Chesapeake is likely to enter IPAs with landowners for the same purposes within the next few months.
- A locality may create a pension program, in which it pays cash to the owner of land of which the locality acquired in fee simple or a permanent easement. Under this pension for preservation program, the landowner establishes when his payments will begin, how long his payments will continue, and any rights of his survivors. Though the value is set at closing, the locality is responsible for paying for any incremental value in the owner's land before his retirement.

## Recommendations and Discussion

Mark J. Vucci, *Attorney*, DLS Staff

Mr. Vucci recommended that the members set objective standards for a purchase of development rights program. He also suggested that, since the number of participants in the Virginia Land Conservation Tax Credit program is likely to balloon within the next several months, additional study time to obtain better figures as to preservation costs is necessary to set objective standards. Other recommendations included:

- Consider the appropriate level of cost sharing, if any, between the Commonwealth and local governments in establishing a statewide purchase of development rights program. Possible options include a 50-50 cost sharing, allocation of state grants to local governments, and fixed, annual appropriations to each Virginia locality.
- Consider proposing financing options for the Commonwealth's cost share, if any, in a statewide purchase of development rights program.

- Consider proposing financing options for local governments' cost share, if any, in a statewide purchase of development rights program.

The Commonwealth may finance its share of the cost by appropriating funds from the annual surplus, dedicating revenue from an existing tax, making a general fund appropriation, appropriating funds from a new source of revenue, or issuing bonds for up-front capital to meet the January 1, 2010, Chesapeake Bay preservation objective. Likewise, local governments may finance their respective cost-share by borrowing from the Virginia Resources Authority (VRA) if VRA is statutorily permitted and by dedicating revenue from an existing local tax for land preservation/tourism purposes. Specifically, county governments may finance their respective cost-share by borrowing for land preservation without first conducting a referendum if constitutionally permitted. Actions the joint subcommittee could take are:

- Agree to the reauthorization of the study.
- Propose a bill that authorizes the VRA to raise capital for land preservation purposes.
- Put forward the idea of amending the Constitution of Virginia to allow counties to borrow for land preservation without first conducting a referendum.

Several members spoke of the desire for poorer counties to raise more money for land preservation purposes and to treat urban counties, which resemble cities, as cities for borrowing purposes.

## Reauthorization of the Study

In a resolution to reauthorize the study, the joint subcommittee formally agreed to recommend funding for the Office of Farmland Preservation and the Virginia Farm Link program, as well as a start-up appropriation in 2007 for a statewide purchase of development rights program.

HJR 133/SJR 94  
*Joint Subcommittee Studying  
Long-Term Funding Sources for the  
Purchase of Development Rights to  
Preserve Open-Space Land and Farmlands*

Senator Emmett W. Hanger, Jr., Chair  
Delegate Lynwood W. Lewis, Jr., Vice chair

Mark Vucci, David Rosenberg,  
Kevin Stokes, DLS Staff

(804) 786-3591

study website  
<http://dls.state.va.us/land.htm>

# HJ 144: Telework Opportunities

November 15, 2006

The Joint Subcommittee to Study Telework Opportunities for the Public and Private Sector held its final meeting of the 2006 Interim on November 15, 2006, in Richmond. The two-year subcommittee will continue to meet in the 2007 Interim to develop recommendations.

## Telework Promotion

### **Karen Jackson - Director, Office of Telework Promotion and Broadband Assistance**

Ms. Jackson, the director of the newly created Office of Telework Promotion and Broadband Assistance, introduced herself to the committee. She said that the Office is currently working on developing awards for successful telework programs. The Office is also trying to work with the Virginia Information Technologies Agency (VITA) and other state agencies to identify barriers to telework and identify policies and procedures that need to be addressed.

### **Farley Beaton - Chief Technology and Security Officer, Virginia Retirement System**

Mr. Beaton, who is also a member of the Council on Technology Services (COTS), provided an overview of the work of COTS as it relates to telework. He chairs the COTS Mobile Workforce, whose primary mission is to identify information that makes it easier for managers to pursue telework programs. The workgroup is currently developing a paper that will describe telework best practices. The work is not focused on creating best practices, but on gathering information available from a variety of sources and sifting through the information to provide relevant information to government managers in an easy-to-use format. The paper will look at business rules, technology enablers, and a measurement program. He said that the group expects to complete the project in mid-February. Senator Devolites Davis suggested that if the paper is completed while the 2007 General Assembly is still convened, that a presentation of the paper be arranged for the House Committee on Technology and Science and the Senate Committee on General Laws and Technology.

## Disaster Preparedness

### **Curtis Brown - Office of Commonwealth Preparedness**

One of the study mandates directs the joint subcommittee to examine the impact of increased

telework opportunities on the continuity of government operations in the event of a natural or manmade disaster. Mr. Brown provided an overview of continuity of operation (COOP) planning in the Commonwealth.

The Office of Commonwealth Preparedness was originally created by executive order, and was codified by the 2006 General Assembly. The office provides oversight and review of emergency management plans, and coordinates efforts between state agencies and the Governor's cabinet. Preparedness is a component of each agency's mission. The office has been working to focus efforts on COOP plans and the need to coordinate a statewide strategy. IT solutions, such as telework, will be an essential part of this strategy.

## Pandemic Planning and Infrastructure

### **Peggy Ward - Chief Information Security and Internal Audit Officer, VITA**

Ms. Ward explained some of the issues unique to planning for a pandemic, as opposed to other disasters. The duration of a pandemic would be in the realm of months, not days or weeks like other events, and would likely reduce the workforce by 30 to 40 percent. VITA convened a Pandemic Flu Preparedness Committee in May of 2006 to address the IT concerns that would relate to a pandemic. Telework is one aspect of the readiness plan. VITA's goal, under such a circumstance, would be to maintain essential Commonwealth functions. However, what is "essential" will vary from agency to agency, and will change based on the duration of the event. Once essential functions are identified, there would be a need to assess the capacity needed to support telework on that scale. VITA is also working with the Office of Commonwealth Preparedness on its Continuity of Operations and Pandemic subcommittees.

### **Fred Duball - Director, Service Management Organization, VITA**

Mr. Duball briefed the joint subcommittee on the Commonwealth's networks and the infrastructure necessary to support telework. Currently, VITA runs about 85 separate networks ~ a direct result of each agency creating its own network prior to the creation of VITA. Because each network is different, it

*The newly created Office of Telework Promotion and Broadband Assistance will work with VITA and other state agencies to identify barriers to telework and identify policies and procedures that need to be addressed.*

is difficult to develop a single approach to managing the infrastructure. VITA envisions a single, centrally managed network, or "enterprise network," by 2009. This single network will serve as a better foundation for a variety of telework solutions; however, in the meantime, VITA is working with agencies to support telework.

## Next Meeting

The joint subcommittee will schedule its next meeting after the 2007 Session of the General Assembly.

*The members closed the meeting with an overview of draft legislation that passed the House in the 2006 Special Session but was not acted on favorably by the Senate. Many of these bills will be seen again during the 2007 General Assembly Session.*

HJR 144  
*Joint Subcommittee to Study  
Telework Opportunities for State  
and Private Sector Employees*

Delegate Timothy D. Hugo, Chair

Lisa Wallmeyer, Patrick Cushing, and  
Amigo Wade, DLS Staff  
(804) 786-3591

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

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

## SJR 60: Virginia's Future Transportation Needs

### November 27, 2006

The meeting was called to order by the Delegate Wardrup, Jr., co-chair of the joint subcommittee. He introduced Commissioner of the Virginia Department of Transportation (VDOT), Mr. David Ekern, who made a few opening remarks.

### Presentations

**Dr. Gary Allen, Chief of Technology, Research, and Innovation, VDOT**

Dr. Allen updated the members on the consolidation of maintenance facilities and interstate outsourcing currently underway which he stated is a result of VDOT's work to streamline its operation and reduce costs. The two main factors taken into consideration in consolidating maintenance facilities across the Commonwealth were:

- The number of superintendents needed to manage the work statewide.
- The number of needed facilities from which to deploy.

Lane miles and traffic volumes, population and growth, response time, and deicing chemical storage requirements were taken into consideration with extensive review and involvement by each of the individual districts. Dr. Allen stated that the final decision as to maintenance facility consolidation will be made by the Commissioner near the middle of December. VDOT has a target reduction of facilities from 335 to 244, 176 of these being retained as area headquarters and 68 retained for other purposes such as

storage for materials and equipment. Approximately 600 positions will be impacted by the consolidation and an expected reduction of \$4 million in costs.

In regards to interstate maintenance outsourcing, Dr. Allen reminded the members that this outsourcing was provided for in recent legislation (HB 667) and requires that it be completed by June 30, 2009. Interstate outsourcing contracts include maintenance for roadways, drainage, structures, signs, vegetation control, traffic services, incident management, snow and ice control, pavement resurfacing, and bridge rehabilitation. Contracts for two portions of Interstate 64 have been awarded to date with the remaining to be awarded within the next two years. Outsourcing interstate maintenance is expected to produce an \$8.9 million reduction in costs.

**Mal Kerley, Chief Engineer, VDOT**

Mr. Kerley gave a presentation on TIFIA Loans, an update on the status of PPTAs, and information on asphalt pricing trends. Mr. Kerley explained that TIFIA Loans provide federal credit assistance to nationally or regionally significant surface transportation projects, including highway, transit, and rail with a goal of leveraging limited federal resources and stimulating private capital investment in transportation infrastructure. TIFIA loans may be utilized as the nonfederal share to federal funding on a qualifying project. TIFIA contributions are limited to 33 percent and must be repaid within 35 years after the project's substantial completion.

As for the PPTA update, Mr. Kerley stated that since 1995, 53 proposals have been received for 27 different projects/contracts, and five



contracts have been completed; these include Route 895, Route 288, Route 199, Route 58, and Interstate Maintenance. Proposals have been received for two more projects: Interstate 81 and U.S. Route 460. In addition, VDOT is currently managing six contracts including Interstate Maintenance, Interstate 495 HOT Lanes, Route 28, Route 895 Concession, Coalfields Expressway, and Interstate 95/395. Mr. Kerley closed his presentation by stating that conventional asphalt prices have risen from \$35.65/ton in 2001 to \$51.70/ton in 2006 and gave some other more detailed, statistical data.

## Draft Legislation

The members closed the meeting with an overview of draft legislation that passed the House in the 2006 Special Session but was not acted on

favorably by the Senate. Chairman Wardrup stated that the following bills would most likely be introduced in the 2007 Session of the General Assembly: HB 5016, HB 5047, HB 5062, HB 5065, HB 5066, HB 5067, HB 5068, and HB 5069.

SJR 60

### *Joint Subcommittee to Study the Role of the Commonwealth and its Agencies in Meeting Virginia's Future Transportation Needs*

Senator Martin E. Williams, Co-chair  
Delegate Leo C. Wardrup, Jr., Co-chair

Alan Wambold and Stephanie Bishop, DLS Staff  
(804) 786-3591

## HJR 48: Study of Issues Relating to Stem Cell Research

### November 13, 2006

The main purpose of the final two meetings of the joint subcommittee was to develop legislation for the 2007 General Assembly session.

The first and only speaker of the day was Dr. David Suttle of the Virginia Department of Health. Dr. Suttle, who was unable to attend the last subcommittee meeting, gave a brief update of the Department of Health's progress in implementing the Virginia Cord Blood Bank Initiative. He mentioned that the consortium of experts developed as a result of HB 413 (2006) would hold their first meeting on December 1. He also spoke of new federal funding possibilities that the consortium would be exploring. He also expressed some concern that language in the Code section establishing the Cord Blood Bank limiting its use to Virginians might limit the sources of funding available. The members briefly discussed introducing legislation to change this language, but eventually decided to wait and see if the consortium of experts thought this would be necessary.

The rest of the meeting was devoted to developing legislative proposals. The joint subcommittee came up with three proposals that they would like to see drafted before their final meeting. The proposals were:

- A continuation of the study for one year, for two meetings only, to continue to monitor the progress of the Cord Blood Bank Initiative and to deal with any emerging stem cell research issues.
- A resolution encouraging the Department of Health to continue seeking new sources of federal funding, and

also to seek support from the Virginia congressional delegation.

- A bill requiring insurance providers to cover the costs of umbilical cord blood collection, processing, and storage.

The meeting was adjourned with the agreement that the subcommittee would meet one last time to go over drafts of the three proposals.

### November 27, 2006

The joint subcommittee's final meeting was limited to a review of the three legislative proposals. The members reviewed the drafts prepared by staff and decided to recommend continuing the study for another year, encourage the Department of Health to seek federal funding for the Cord Blood Bank Initiative, as well as seek the support the Virginia congressional delegation. The subcommittee decided not to pursue legislation requiring insurance carriers to cover the costs associated with umbilical cord blood collection and storage.

HJR 48

### *Joint Subcommittee to Study the Medical, Ethical & Scientific Issues Relating to Stem Cell Research*

Delegate Robert G. Marshall, Chair

Jessica Eades and Nikki Seeds, DLS Staff  
(804) 786-3591

study website

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

*The joint subcommittee recommended continuing the study for another year, encouraging the Department of Health to pursue federal funding for the Cord Blood Bank Initiative, as well as seek the support of the Virginia congressional delegation.*

## COMMISSIONS and COUNCILS

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

### Virginia Sesquicentennial of the American Civil War Commission HB 1440 11-9-2006

The second meeting of the Virginia Sesquicentennial of the American Civil War Commission was held November 9, 2006, at Pamplin Historical Park in Petersburg.

### Civil War Centennial

#### NATIONAL CENTENNIAL COMMISSION

Dr. James I. Robertson, Jr., Alumni Distinguished Professor,  
Virginia Tech

Dr. Robertson offered reflections on the 100<sup>th</sup> anniversary commemoration of the Civil War. The centennial was a commemoration of the deeds and sacrifices of the 1860s and was not done in a celebratory manner.

The National Centennial Commission worked with 34 state commissions and over 300 local centennial commissions. It coordinated activities to avoid repetition of effort, sponsored national programs such as the centennial of the Emancipation Proclamation held at the Lincoln Memorial, and published books and monthly bulletins. The commission took the lead in the first major efforts to preserve historic sites and grounds, and urged local participation. It did not endorse any product, book, film or toys, and did not sanction battle re-enactments. President Kennedy prohibited re-enactments on federal property, including national battlefields.

Dr. Robertson said that the centennial commemoration went far in sparking a deep awareness of the tortuous journey America has made in its history and urged the present commission to focus sesquicentennial efforts on educating the nation's children. He cautioned that the 150<sup>th</sup> anniversary commemoration will be much different from the 100<sup>th</sup> anniversary, because the mood of the country has changed significantly.

#### VIRGINIA CENTENNIAL COMMISSION

Cheryl Jackson, Division of Legislative Services

The Civil War Commission was established by the Virginia General Assembly in 1958. It sought to inspire Virginians, and "strengthen the unity of the country

through mutual understanding . . . that there was dedication and devotion on both sides." The goal of the centennial commemoration was to highlight character of individuals. Perhaps because the centennial coincided with the civil rights struggle, the issues of slavery and race relations during the civil war were largely ignored. The sesquicentennial commemoration will seize this missed opportunity to fully explore Virginia's diverse heritage.

In applying lessons that can be learned from the centennial for the current commemoration, it is important to note that the goals are similar: commemoration, education, and travel. However, the ways in which these goals will be accomplished, the stories that will be told, and the people included will be quite different. While the centennial period was guided by *inspiration*, the sesquicentennial commemoration is guided by *inclusion*.

### Sesquicentennial Planning to Date

#### VIRGINIA HISTORICAL SOCIETY

Dr. Charles Bryan, President and CEO

Dr. Bryan briefed the Commission on Civil War 150, a group that is being coordinated by Dr. Rick Beard, the Executive Director of the Abraham Lincoln Library in Springfield. The group, which is composed of the heads of historical societies and museums, was formed for communication and coordination among the states and has met twice. Members have discussed coordinating an exhibition that can travel throughout the states, encouraging citizens to donate relics to their state historical societies.

#### FREDERICKSBURG AND SPOTSYLVANIA NATIONAL MILITARY PARK

Russ Smith, Superintendent

The National Park Service (NPS) has over 70 sites related to the Civil War, with 11 in Virginia. The centennial commemoration period, which overlapped with the 50<sup>th</sup> anniversary of the NPS, was a time of revitalization of the park service. Since then, the visitor centers and interpretive media have been frozen in time with some displays looking the same as they did when they were built 50 years ago. It is hoped that the sesquicentennial period will spark another renewal for the NPS.

In preparation for the sesquicentennial, the NPS has begun to improve interpretive media at certain sites, launch a civil war website, and meet with individual sites. Challenges that lie ahead are funding, competing priorities, lack of direction and overall coordination, and the need for federal legislation directing efforts.

### **CIVIL WAR PRESERVATION TRUST**

**Jim Campi, Policy and Communications Director**

The Civil War Preservation Trust (CWPT) is the number one entity protecting Civil War battlefield land in the United States, having helped to preserve more than 23,000 acres in 19 states. In Virginia, the CWPT has protected more than 11,000 acres, securing \$18 million in federal battlefield grants for Virginia sites since 1999.

Mr. Campi noted the economic benefits of preservation through "Heritage Tourism." Civil War visitors to Virginia tend to stay for 4.1 nights and spend \$547 per visit. More land preserved translates into longer stays. For the sesquicentennial, CWPT plans to encourage further federal and state funding of battlefield preservation, increase acquisition efforts in high-risk states like Virginia, and promote the anniversary through news media and partnerships with National Geographic and the History Channel.

### **WHITE HOUSE AND MUSEUM OF THE CONFEDERACY**

**Waite Rawls, Executive Director**

Mr. Rawls presented the findings of the Peer Review Report by the independent study panel that was commissioned to make recommendations on the location of the museum. The report recommended that the White House should not be moved and that the collection must stay together, but must move to survive, staying in Richmond, if possible. Strategic alliances are being discussed for a new location for the collection. The lead time on moving is very short, due to the financial position of the museum and the preparation that will be necessary for the sesquicentennial.

### **PETERSBURG NATIONAL BATTLEFIELD PARK: ITS HISTORY AND FUTURE**

**Chris Calkins, Chief of Interpretation**

Mr. Calkins described the importance during the civil war of the Petersburg Campaign, which lasted nine and a half months, was fought over 176 square miles, and marked the beginning of the end for the Confederacy. The Petersburg National Battlefield currently encompasses 2,659 acres and is spread out over 37 miles. With the completion of the park's General Management Plan, legislation will be introduced to expand by 7,238 acres. Unable to preserve all of the land that made up the Petersburg battlefields, epicenters were chosen for preservation at Reams Station, White Oak Road, Hatcher's Run, Peebles Farm, and Five Forks.

New themes for interpretation, based on customer surveys, will include: Causes of the War, Plantation and Slave Life, Civilian Life and Impacts, Women in the Petersburg Campaign, African American Experience, Leadership and Command, Supply and Logistics, and the Burial of the Dead.

### **PAMPLIN HISTORICAL PARK AND THE NATIONAL MUSEUM OF THE CIVIL WAR SOLDIER**

**Will Greene, Executive Director**

Mr. Greene gave background information on stalled federal legislation, which was first introduced in the mid-1990s, naming the U. S. Civil War Center at Louisiana State University to head the sesquicentennial in partnership with Gettysburg College. Subsequent bills to create a federal sesquicentennial commission have been introduced in each session of Congress since that time, but none have passed.

Mr. Greene also shared his thoughts on sesquicentennial commemoration plans that recognize that Virginians do not all share the same heritage, including goals to:

- Connect the lessons of the 1860s to contemporary life.
- Include people from all walks of life.
- Inspire lifelong learning.
- Realize a sesquicentennial commemoration that is inclusive and unites all Americans.

### **Work Plan and Next Meeting**

Following the meeting, Mr. Greene led Commission members on a tour of the park and museum. The Commission will meet again on January 9, 2007, in Richmond.

### **VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION**

**SPEAKER WILLIAM J. HOWELL, CHAIR**

CHERYL JACKSON AND BRENDA EDWARDS,  
DLS STAFF

**Telephone (804) 786-3591**

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

## *Freedom of Information Advisory Council 10-11-2006*

The Freedom of Information Advisory Council (the Council) held its second meeting of 2006 on October 11, 2006. The Council heard progress reports from its three subcommittees, considered draft legislation concerning venue under FOIA, discussed public access to travel reimbursement records, received a presentation from representatives of the Virginia Retirement System regarding possible FOIA legislation, and received a presentation concerning online access to records held by the clerks of court.

### **Subcommittee Reports**

#### **PPEA/PPTA SUBCOMMITTEE**

The PPEA/PPTA Subcommittee met on August 9, 2006, and on August 23, 2006. The main topic for consideration was SB 5011, which passed during the 2006 Special Session with a sunset provision such that it expire will July 1, 2007. Bill Axelle, Chairman of the Subcommittee, reported that the Virginia Department of Transportation (VDOT) had requested that the sunset provision of SB 5011 be removed so that its provisions will not expire. Mr. Axelle indicated that the Subcommittee had agreed to recommend that legislation be passed similar to SB 5011 but narrower in scope. The recommended draft would preserve the position that a public body can keep certain records confidential after the signing of a comprehensive or interim agreement, as does SB 5011, but would be narrower in scope of application. In response to questions from the Council, Mr. Axelle noted that VDOT had participated in the Subcommittee meetings, but deferred to VDOT to make any comments of its own regarding the recommended draft. Senator Houck asked the Subcommittee to submit its recommendation for the full Council's consideration at the next Council meeting, which will include the annual preview of upcoming legislation. Note that the Virginia Press Association (VPA) distributed a proposed change to the draft bill at today's meeting, but the Subcommittee had not had an opportunity to review the VPA's proposal before making its report.

#### **ELECTRONIC MEETINGS SUBCOMMITTEE**

The Electronic Meetings Subcommittee met on August 9, 2006, August 23, 2006, and October 11, 2006. John Edwards, Chairman of the Subcommittee, reported that the work of the Subcommittee was not yet finished. Mr. Edwards indicated that the Subcommittee members had agreed to propose reducing the notice requirements for electronic meetings from the seven working days currently required down to three working days; to keep the current requirement that a quorum be physically assembled; to add an emergency participation provision to FOIA to allow members to participate by electronic means in

emergency situations where the member originally intended to be physically present but is unable to do so; and to authorize regional public bodies to hold electronic meetings. There is a divergence of opinion regarding the definition of "regional public body," and the Subcommittee intends to meet again to reach consensus on that definition. Additionally, language was drafted to make allowance for disabled members of public bodies to participate in meetings by electronic means at the request of the State-wide Independent Living Council (SILC). However, the Subcommittee has not yet been able to meet with a representative of SILC. Mr. Edwards indicated that the Subcommittee was not comfortable recommending language on this issue without first getting feedback directly from SILC. Senator Houck agreed that the Subcommittee should meet again to work out the unresolved issues and to hear from SILC, and report back to the Council at its next meeting.

#### **"FIFTH RESPONSE" SUBCOMMITTEE**

The Fifth Response Subcommittee met on July 27, 2006. Craig Fifer, Chairman of the Subcommittee, reported that the Subcommittee had agreed to propose a draft that made four primary changes to existing law. First, the draft removes the term "custodian" from subsection B of § 2.2-3704. The Subcommittee proposed this change because the term "custodian" currently is not defined in FOIA, and use of the term can lead to confusion regarding who is responsible for responding to a records request. Second, the draft changes the presentation format of the responses to clarify unequivocally that if the public body is going to provide records in response to a request, it must do so within five working days of receipt of the request. Third, the draft adds a fifth response allowing public bodies to indicate that the requested records do not exist or cannot be found. This section of the draft also provides that if a public body has knowledge of where the records may be found (i.e., they are held by a different public body), it shall so inform the requester. Fourth, the draft allows a public body to invoke additional time to respond if the request requires an extraordinarily lengthy search for records. Currently additional time may be invoked if the request is for an extraordinary volume of records, but no provision is made for situations where other factors increase the time needed to search for records. Council members expressed concern regarding the removal of the term "custodian," and how it may affect the attribution of responsibility for responding to requests. Concern was also expressed regarding new language in the draft that could be interpreted as attributing knowledge to the public body itself, rather than to individual persons. The Council also asked the Subcommittee to consider the effects of the draft on the particular situation where an elected official receives numerous requests immediately prior to an election (i.e., someone abusing FOIA as a means of political harassment). Senator Houck directed the Subcommittee to continue its work and present a revised draft for consideration at the next full Council meeting.

## Other Business

### VENUE

At the June meeting of the Council, staff briefed the case of *Shaw v. Casteen*, which highlighted confusion regarding the venue provisions of subsections A and B of § 2.2-3713. Staff presented a draft, which places both venue provisions within subsection A of § 2.2-3713, using the terms "local" and "state" in separately numbered subdivisions to clarify the intended dichotomy. The draft also makes additional technical changes for purposes of clarification, but does not substantively change the existing venue provisions. The Council expressed concern that while the draft clarifies the venue provisions regarding state and local public bodies, confusion could still arise regarding the proper venue in regards to regional public bodies. Neither the current law nor the proposed draft bill contains language specifically addressing regional public bodies. The Council directed staff to draft additional language to clarify what is the proper venue in regards to regional public bodies.

### REIMBURSEMENT FOR TRAVEL EXPENSES

Section 2.2-3705.8 of the Code states that public access shall not be denied to "...(ii) records of the position, job classification, official salary or rate of pay of, and **records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body.**" (Emphasis added). There has been considerable debate among the media and public bodies as to precisely what records must be provided under this section of FOIA. Staff brought the issue before the Council to get the Council's sense of whether this provision requires the release of (i) credit card and hotel receipts appended to a travel voucher, (ii) the travel voucher and work sheet submitted for reimbursement, (iii) the memorandum of the payment of the reimbursement identifying the amount paid, to whom paid, and the purpose of the travel, or (iv) all of the above mentioned documents. The Council expressed its opinion that while social security numbers and other individually identifiable information may be redacted as exempt personnel records, all records of allowances or reimbursements should be disclosed upon request, including all receipts, vouchers, reimbursement request forms, and records of payments made.

### VIRGINIA RETIREMENT SYSTEM (VRS)

This item was added to the day's agenda by request of VRS. Bob Schultze, Director, and Charles Grant, Chief Investment Officer, made a presentation to the Council regarding the need for a FOIA exemption that will allow the delayed release of certain sensitive investment information and the ability to protect confidential information provided by external entities doing business with VRS. Mr. Schultze and Mr. Grant indicated that without such an exemption, certain private investment managers would not work with VRS for fear that their private records might be disclosed under FOIA. Additionally, certain factual situations could create conflict between VRS' fiduciary duties in managing investments and its duties as a public body under FOIA to

respond to records requests. Council members expressed concern over the definitions to be used and the scope of the exemption, and how it would differ from the existing exemption for VRS records found at subdivision 12 of § 2.2-3705.7. Senator Houck suggested that the Council and staff might work with VRS to create a draft for presentation at the next Council meeting. Council Members Malveaux and Yancey-Spencer volunteered to help participate in this drafting process.

### ACCESS TO COURT RECORDS

This item was added to today's agenda by request of Mr. John G. "Chip" Dicks. Mr. Dicks briefed the Council on ongoing work regarding records maintained by the clerks of the circuit courts, which include not only court records, but land records, marriage records, notary commissions, and other records. Specific rules for the clerks of court and records they hold are found in Title 17.1 of the Code, rather than in FOIA. Current law in Title 17.1 has provisions for posting land records online through a secure remote access system, and for electronic filing of land records, which allows business to be conducted without actually coming to the courthouse. The concern is that many of the land records contain individuals' social security numbers and other information that could be misused by identity thieves. Additionally, there is concern that private information vendors will request entire databases from the clerks and then sell this data indiscriminately, without the safeguards put in place by public bodies as required under Title 17.1. Mr. Dicks presented the problems and concerns that have been raised as well as various proposed solutions, primarily concerning the redaction of social security numbers from existing records as they are converted into electronic format. He indicated that a major problem is practical in nature, as the clerks offices currently lack the personnel and technological resources to redact the millions of pages of documents they hold. Additionally, Mr. Dicks indicated that there are legal questions regarding interstate and international commerce and jurisdiction that must be addressed. Senator Houck called for volunteers from the Council to help work with Mr. Dicks and staff in developing a draft to address these issues; Council Member Fifer volunteered.

## Next Meeting

The final meeting of the Council will be held on December 15, 2006, in Richmond, which will include the annual legislative preview.

## FREEDOM OF INFORMATION ADVISORY COUNCIL

SENATOR R. EDWARD HOUCK, CHAIR

MARIA J.K. EVERETT, EXECUTIVE DIRECTOR

Telephone (804) 786-3591

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

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

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

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

**TITLE 8. EDUCATION**

**STATE BOARD OF EDUCATION**

**Proposed Regulation**

**8 VAC 20-160. Regulations Governing Secondary School Transcripts (amending 8 VAC 20-160-10 through 8 VAC 20-160-60).**

A public hearing will be held January 10, 2007, at 11 a.m., Department of Education, Richmond.

Written public comment may be submitted until 5 p.m. on February 12, 2007.

*The proposed amendments remove the 1988-89 effective date provision, revise the definitions as necessary to comport with those in other Board of Education regulations, and revise the format options for the transcript and profile data sheets to reflect both Board of Education regulations and state law. The sections concerning class ranking, advanced placement courses and the elements of weighting are revised to ensure that they comport with best instructional practices, as well as other state requirements.*

For additional information please contact Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, (804) 225-2540, FAX (804) 225-2524, or email [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

**TITLE 12. HEALTH**

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

**Proposed Regulation**

**12 VAC 30-120. Waivered Services (adding 12 VAC 30-120-1600 through 12 VAC 30-120-1660).**

Written public comment may be submitted until February 9, 2007.

*The proposed amendments establish a new waiver program to provide additional services to residents of assisted living facilities who receive an auxiliary grant, who meet nursing facility criteria, and who have a diagnosis of Alzheimer's or a related dementia. Related dementia is defined as an individual with a diagnosis of Dementia of the Alzheimer's Type as defined by the Diagnostic and Statistical Manual of Mental Disorders. Individuals eligible to be placed on the AAL Waiver are currently either (i) remaining at home where a spouse or adult child is typically serving as primary care giver; (ii) residing in an assisted living facility possibly without the benefit of specialized services, which are not provided for in the auxiliary grant payment; or (iii) residing in a more restrictive setting such as a nursing facility. Through the proposed Alzheimer's Assisted Living (AAL) Waiver, recipients will be able to receive an appropriate level of care within special care units of assisted living facilities.*

*The emergency regulation implementing the General Assembly mandate contained an eligibility requirement that an individual applying for entry into this waiver program be age 55 or older. This requirement was referenced in 12 VAC 30-120-1610 A, B and D. After consultation with the Department of Planning and Budget and the Secretary of Health and Human Resources, DMAS has removed this eligibility requirement.*

For additional information please contact Teja Stokes, Project Manager, Department of Medical Assistance Services, (804) 786-0527, FAX (804) 786-1680, or email teja.stokes@dmas.virginia.gov.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Proposed Regulation

#### **12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-190).**

Written public comment may be submitted until February 9, 2007.

*The proposed amendments implement the mandated physician rate increases included in the 2005 Appropriation Act. Items 326 VVV, WWW, and XXX directed various physician rate increases for an effective date of May 1, 2006. The proposed amendments provide for a 2.5% increase for obstetrical and gynecological services, a 5.0% increase for pediatric services, and a 5.0% increase for adult primary and preventive care services. The amended section defines the methodology for physician fee schedule rate setting under the Resource Based Relative Value Scale system.*

For additional information please contact William Lessard, Provider Reimbursement, Department of Medical Assistance Services, (804) 225-4593, FAX (804) 786-1680, or email william.lessard@dmas.virginia.gov.

## STATE BOARD OF HEALTH

### Proposed Regulation

#### **12 VAC 5-190. State Plan for the Provision of Children's Specialty Services (repealing 12 VAC 5-190-10 through 12 VAC 5-190-690).**

#### **12 VAC 5-191. State Plan for the Children with Special Health Care Needs Program (adding 12 VAC 5-191-10 through 12 VAC 5-191-320).**

Written public comment may be submitted until February 9, 2007.

*This regulation governs several programs serving individuals with special health care needs administered by the Department of Health.*

*Due to the need for extensive revisions, this regulatory action is repealing the current regulation (12 VAC 5-190) State Plan for the Provision of Children's Specialty Services. The current regulation governs a diagnosis-based, direct clinic service model that is no longer operating throughout the Commonwealth due to significant changes in health care coverage among children, federal goals for children with special health care needs, and identified needs of this population and their families.*

*The proposed regulation, 12 VAC 5-191, State Plan for the Children with Special Health Care Needs Program, identifies current program components, the scope of services provided and eligibility requirements. The regulation establishes the authority to operate a program-specific pool of funds contingent upon available funding, outlines appeals processes and defines relationships and automatic referrals from other state-mandated screening and surveillance programs. The regulation recognizes that the Children with Special Health Care Needs Program is not an entitlement or federal/state/local public benefit program.*

For additional information please contact Nancy Bullock, Director, Children with Special Health Care Needs Program, Division of Child and Adolescent Health, Department of Health, (804) 864-7706, FAX (804) 864-7722, or email nancy.bullock@vdh.virginia.gov

## DLS BULLETIN BOARD

- **This is the last issue of the *Virginia Legislative Record* for 2006.**
- **For late December study meeting information, please check the General Assembly calendar or DLS study websites.**
- **The General Assembly will convene on January 10, 2007, at noon in Richmond and a joint session will convene at 7:00 p.m. at Jamestown Settlement to receive the Governor's address.**

For multiple copies of the *Virginia Legislative Issue Brief* or other DLS publications, please contact the House or Senate Clerks Office.

*Division of Legislative Services*

*910 Capitol Street, 2nd Floor  
Richmond, Virginia 23219  
(804) 786-3591*

E. M. Miller, Jr., Director  
R.J. Austin, Manager, Special Projects  
Lynda Waddill, Editor

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Division of Legislative Services  
910 Capitol Street, GAB, 2nd Floor  
Richmond, Virginia 23219

