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Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act

October 9, 2013

The Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act (Special Subcommittee) held its third meeting of the interim in Richmond. After opening remarks from the chair, Delegate Chris Jones, the Special Subcommittee proceeded to hear scheduled presenters.

Enterprise Applications Master Services Agreement

Matt Conrad, Deputy Chief of Staff and Program Director for the Enterprise Applications Master Services Agreement (EAMSA)

Mr. Conrad stated that the Enterprise Applications Master Services Agreement (EAMSA) was competitively bid and awarded in 2005 under the administration of Governor Mark Warner. The initial seven-year contract provided for two three-year renewal options. Since 2005 there have been 36 statements of work (SOWs) for a total value of \$18 million. Of that amount, stated Mr. Conrad, only about \$2 million has been awarded under the administration of Governor McDonnell. Over the course of the contract the largest user has been the Department of Taxation, which used the EAMSA for the collection for delinquent tax collection. He explained that the 2011 biennial budget provided for executive branch agencies to use the EAMSA in five areas including financial management, supply chain management and information technology (IT) management, and application development.

The chair expressed concern regarding whether there was any overlap between the functions performed under the EAMSA and those performed by the Virginia

Information Technologies Agency (VITA). Mr. Conrad asserted that there was no incursion or duplication of VITA functions. Regarding technology procurements, the chair stated that it was his hope that there was some communication with VITA to ensure that what is procured fits with current programs.

IT Procurement in the Commonwealth

Sam Nixon, Jr., Chief Information Officer

Mr. Nixon stated that his presentation was a follow-up to the high-level overview that he provided regarding information technology procurement in the state. VITA possesses oversight authority for the procurement of IT and telecommunication goods and services of every description for executive branch agencies. In performing this oversight, VITA ensures that the business requirements of covered executive branch agencies are aligned with technical expertise. In addition, VITA works to achieve interoperability between agencies by ensuring that procurements comply with state standards and architecture. Other VITA oversight responsibilities include protecting state data from growing cyber security threats by constantly assessing vulnerabilities and risks, implementing system integration and software licensing, and overseeing intellectual property rights.

Mr. Nixon went on to provide the Special Subcommittee with observations relative to IT procurements and opportunities for improvement in three key areas:

IMPROPER USE OF THE SOLE SOURCE PROCUREMENT

- Use of the sole source procurement exemption without clear justification.
- Use of sole source because of prior work by a vendor.
- Requests for proposals that are essentially noncompetitive.

*The Special Joint
General Laws
Subcommittee
Studying the Virginia
Public Procurement
Act heard information
about IT procurement
in the
Commonwealth.*

IMPROPER USE OF CONTRACT CHANGE ORDERS

- Initiating major IT projects by issuing change orders to existing contracts.
- Change orders that can greatly expand the scope and cost of existing contracts.
- Change orders that may not be subject to the same level of review as the original contract.

UNAUTHORIZED PROCUREMENTS

- Agencies that procure IT without approval or delegation.
- Possible violation of procurement laws in instances where the original contract scope is exceeded.

Mr. Nixon then expressed concern that VITA lacks the oversight tools that are used by the Department of General Services (DGS) to ensure compliance with the state's procurement laws. He noted that while procurement authority for information technology procurement was transferred from DGS to VITA in 2003, the requisite oversight authority was not transferred. As a result, when it comes to IT procurements, VITA does not have the authority to debar vendors, refuse to authorize contract payments, or review and approve contract modifications. These are powers the DGS exercises in its role of procurement oversight. A member noted that VITA does not seem to have much oversight authority. The chair noted that, while he does not think there is a problem with fraud, there remains a need to provide VITA with enforcement or oversight authority so the agency may enforce compliance with statutory procurement requirements. It may be appropriate to work with the Auditor of Public Accounts and the Office of the Inspector General to craft an appropriate solution in time for the 2014 legislative session.

The Special Subcommittee received comment from individuals who registered to speak.

Ellen Davenport, Virginia Community College System

Ms. Davenport stated that the Virginia Community College System (VCCS) received Level II authority for IT procurement in 2008. The authority provides the VCCS with the ability to better leverage the purchasing power of its 23 colleges to secure discounts and reduce overall costs that may not be possible through standard state contracts. The Level II authority provides the VCCS with the flexibility to support students while minimizing the need to

increase tuition and fees. Ms. Davenport further stated that the VCCS maintains a good working relationship with VITA and will use VITA contracts for IT procurements when it is the most economical and efficient manner to proceed. The VCCS is required to submit an IT Strategic Plan to the State CIO every 45 days prior to the beginning of each fiscal year in addition to submitting a report on the previous year's IT expenditures by October 1 of each year.

According to Ms. Davenport, current procurement standards and guidelines for technology purchases ensure that the state's procurement practices are being followed while at the same time allowing higher education to obtain discounts and reduction of overall IT purchases.

Andrew Sinclair, Virginia Association of Governmental Purchasing

Mr. Sinclair stated that there were three areas that have received the most attention over the course of the first year of the Special Subcommittee's review of the public procurement law: (i) the appropriate use of competitive negotiation, (ii) procurement procedures for construction contracting, and (iii) IT procurement. Regarding the use of competition negotiation, Mr. Sinclair asserted that the intent of the Virginia Public Procurement Act (VPPA) is to allow individual public bodies with broad flexibility in fashioning the details of competitions. He maintained that many concerns expressed over the course of the study appeared to be based on anecdotal events. Any changes to the process should be made based on the demonstrated need for such change. He suggested that the Special Subcommittee request the collection of supplemental data regarding the use of the competitive negotiation considering factors such as the construction project delivery method, the project scale, the type of public body making the procurement, and the statutory procurement authority that the public body is relying upon. If the General Assembly determines that an appeals process is necessary, Mr. Sinclair stated that his organization would support a board to hear such appeals rather than a state agency administrative review.

Regarding IT procurement, Mr. Sinclair stated that the Virginia Association of Governmental Purchasing favored collaborating with VITA or other stakeholders to investigate methods to (i) reduce the time and cost of IT procurements, (ii) increase competition for IT

procurements, and (iii) better allocation of risks for such projects.

Special Subcommittee Review

At the close of the public comment period, discussion among the Special Subcommittee members focused on the next steps. Areas of interest included reviewing a system to allow potential vendors to complain or appeal the use of competitive negotiation or the terms of the request for proposal and increasing enforcement tools.

November 12, 2013

After opening remarks from the chair, Delegate Chris Jones, the Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act (Special Subcommittee) moved to the agenda for scheduled presentations.

Construction Procurement

Richard Sliwoski, Director, Department of General Services

Mr. Sliwoski provided the Special Subcommittee with an overview of selected methods of construction procurement. He stated that prior to 2005, all state agencies followed the Department of General Services (DGS) construction procurement policies established in the Construction and Professional Services Manual (CPSM). After 2005, several changes limited the application of the manual. In terms of public institutions of higher education, Tier 3 institutions and Tier 2 institutions with capital authority may create their own version of the CPSM and have different requirements for approval. Tier 1 and Tier 2 institutions follow the CPSM, but have different requirements for approval in a nongeneral fund construction project. In addition, after 2005, the General Assembly authorized the Department of Corrections to use design-build procurements without the approval of DGS.

The top three construction procurement methods used by public bodies are Design-Build-Build (DBB), Construction Management at Risk (CM), and Design-Build (DB). Under the DBB method, the owner engages a designer under an architectural or engineering services contract to design the facility. The owner separately engages a contractor to build the facility with the contractor's bid being based on the design specifications. The advantages of the DBB method are that it allows maximum competition

and, if the design and specifications are complete, can be extremely cost efficient. The method is also ideal for projects that do not require specialized expertise. Problems related to this method include a higher probability of litigation and the potential for change orders to increase the cost of the project.

Under the CM method the designer and construction manager are separately contracted. The owner's architect or engineer designs the project as usual, but a construction manager is hired early in the design process to assist with the system selection, schedule, and budget. The construction manager provides a guaranteed maximum price before design documents are complete. Benefits of the CM method include (i) the selection of the construction manager or general contractor is both qualifications and cost-based, (ii) the construction manager is engaged early to review documents resulting in reduced conflict and helping to keep the project within budget, and (iii) the construction manager is responsible to the owner to finish on time and within the guaranteed maximum price. A major problem associated with the method is its potential for overuse. The method should only be used where specialized skills are required and not for small projects or projects where no specialized expertise is required. Mr. Sliwoski reviewed a recent survey of state agencies conducted by DGS covering the time period between September 1, 2008, and September 1, 2013. Of the 108 CM projects reported, 52 percent had a total cost greater than \$20 million, 27 percent had a total cost between \$10 and \$20 million, and 21 percent had a total cost of less than \$10 million. These numbers appeared to indicate that the tendency to use the CM method increased with the overall costs and size of the project.

The DB method consists of the agency and the design professional preparing the RFQ and the RFP. Under this method, each proposer submits a technical proposal and a separately sealed cost proposal. The technical proposals are evaluated and then the cost proposals opened. A DB contractor is then selected for award of the contract. Problems can occur with this method if the scope of work and project requirements are not adequately defined in the RFP. Also, since the prequalification selection criteria are not customized to the specific project, the RFP may be unclear to potential responders. In addition, the owner does not have the benefit of the design professional independently overseeing the work.

Prior to 2005, all state agencies followed the Department of General Services' construction procurement policies in the Construction and Professional Services Manual.

John Westrick, Senior Assistant Attorney General

With procurements, the General Assembly has authorized five vendor remedies in the Virginia Public Procurement Act.

Mr. Westrick provided a review of public procurement enforcement and oversight provisions. Mr. Westrick noted that generally sovereign immunity protects government from disruptive law suits except where the legislature has authorized lawsuits. In the case of procurements, the General Assembly has authorized five vendor remedies in the Virginia Public Procurement Act (VPPA). Mr. Westrick indicated that his presentation would focus on the remedy allowing the vendor to protest a contract award or decision to award a contract.

Mr. Westrick then proceeded to review with the Special Subcommittee the steps that are involved with the protest and appeal process.

- **Step 1:** Notice of award or decision to award. At this step, the bid or proposal records are available for vendor inspection.
- **Step 2:** Written protest within 10 days.
- **Step 3:** Written response within 10 days. If the agency deems the protest meritorious, the options that are available depend on the status of the contract. If the contract has not been awarded, the public body may rescind or revise the proposed award or cancel the procurement altogether. If the contract has been awarded but performance has not begun, the public body may enjoin performance, which is the equivalent of cancelling the contract. If performance has begun, the public body may void the contract if it finds that it is in the public interest.
- **Step 4:** Appeal within 10 days of protest denial. This would involve the protestor filing an appeal with the appropriate court. To succeed the protestor must show that the award or proposed award is arbitrary or capricious or not in accordance with law or solicitation. If a court finds the appeal meritorious, it may reverse the award or enjoin the agency from proceeding. Mr. Westrick noted that generally injunctions are not granted.

Mr. Westrick then discussed alternatives to litigation. The VPPA authorizes public bodies to establish an administrative appeal panel to hear disputes. This neutral panel would be outside of the procuring agency's management chain. The usefulness of this option, stated Mr. Westrick, depends on how the panel is set up. Another alternative avenue to litigation is through the establishment of an oversight authority. He noted that this avenue would not allow the vendor to enforce his rights, but rather serve to alert the oversight authority to the procurement problem. The General Assembly has assigned

oversight responsibilities to officers outside of the procurement agency's management. The more general oversight of procurement is through the powers of the two central purchasing agencies: DGS and the Virginia Information Technologies Agency (VITA). The most important oversight authority is the ability to grant or withdraw contracting authority. Mr. Westrick stated that while contracts violating the VPPA are voidable, contracts signed without authority are void. The Special Subcommittee then proceeded to receive public comment.

Steve Ballard, S.G. Ballard Construction Company

Mr. Ballard asserted that the CM method is the best value for the state and that state agencies are currently doing a good job using CM projects. He discussed examples of successful projects at Norfolk State University, Old Dominion University, and Radford University. Mr. Ballard stated that it is difficult to successfully bid CM contracts, citing his company's experience of submitting between 15 to 20 CM proposals before actually being awarded a contract. He emphasized that companies have to be flexible and willing to change.

Tom Evans, Southwood Builders, Inc.

Mr. Evans stated that smaller businesses are not given an adequate opportunity to bid on CM projects. He cited rules that require successful bidders to have completed at least three CM projects as a major reason for the lack of opportunity. A member asked if a possible cause could also be the upfront costs that are involved, which many smaller companies are not able to handle. Mr. Evans replied that was a probable cause, but that it would be combined with other factors. Another member stated that the position taken by Mr. Evans regarding the usefulness of Construction Management at-risk projects was in contrast to that of Mr. Ballard's. Mr. Evans stated that he preferred competitive sealed bidding for projects to ensure that smaller contractors were able to compete. In response to a question about what prevented a smaller contractor from getting a CM at-risk project, Mr. Evans replied that the main reason was the contractors are being told that they need more experience in terms of putting together a management team. He further noted that a contractor is not inclined to protest the award because the likelihood of success is so low. Mr. Herschel V.

Keller, an attorney with the law firm Petty, Livingston & Richards, P.C., approached the podium to offer support to Mr. Evans' position. He asserted that one of the problems with the protest process is that in order to have standing, the contractor has to be a bidder or offeror, not a potential bidder or offeror. The main issue, maintained Mr. Keller, involved the use of unwarranted pre-conditions, such as the experience requirement.

The Special Subcommittee then proceeded to discuss a legislative proposal related to job order contracting. HB 2079, passed during the 2013 legislative session, included provisions that (i) added a definition of job order contracting, (ii) specified procedures to be used by public bodies when utilizing job order contracting, and (iii) established a per project limit of \$400,000 for such projects and a one-year contract term limitation of \$2 million. These provisions have a delayed effective date of July 1, 2014. Over the course of the Special Subcommittee's review of job order contracting and related issues, concern was raised regarding the provisions, chief of which was the adequacy of the amounts established for the per project and contract term limitations. Several options had been discussed. A member requested interested parties to submit proposals for amending the limits directly to the chair for consideration for possible legislative changes.

Special Subcommittee Work Plan

Discussion then centered on developing a work plan for the Special Subcommittee to complete its charge. Staff recommended establishing work groups consisting of interested parties to develop recommendations for legislative changes to the Virginia Public Procurement Act. The objective of the work groups would be to develop consensus on as many measures as possible. Any issues where consensus could not be attained would be turned over to the Special Subcommittee for disposition. It was agreed that the following three work groups would be established:

- Construction, including Design Professional Services.
- IT Procurement and Other Professional Services.
- Goods and Nonprofessional Services.

A member stated that any individual desiring to serve on one of the work groups would have to notify staff by letter or email no

later than December 2, 2013. He stated that the final composition of the work groups will be decided by the Special Subcommittee. He also noted that the Special Subcommittee plans to meet during the 2014 Session to announce the members of the work groups and to provide additional guidance on the process.

*The Special Joint
General Laws
Subcommittee
Studying the Virginia
Public Procurement
Act established three
work groups.*

SPECIAL JOINT GENERAL LAWS SUBCOMMITTEE STUDYING THE VIRGINIA PUBLIC PROCUREMENT ACT

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Joint Study of Local Tax Structure

October 18, 2013

The Commonwealth Center for Advanced Manufacturing was formed by the partnership of 16 private companies.

The Small Business Commission and the Manufacturing Development Commission met jointly for the fourth time this year on October 18 in Charlottesville. A primary focus of the meeting was the Thomas Jefferson Institute for Public Policy's (TJI) State Tax Analysis Modeling Program (STAMP) and its projected outcomes. The Commission members also heard presentations relaying Fairfax County's experiences with the local license (BPOL) tax and explaining the mission of, and services provided by, the Commonwealth Center for Advanced Manufacturing.

Commonwealth Center for Advanced Manufacturing

Dr. Barry W. Johnson, Senior Associate Dean, L. A. Lacy Distinguished Professor, University of Virginia School of Engineering and Applied Science Commonwealth Center for Advanced Manufacturing (CCAM)

Dr. Johnson explained that CCAM is a separate nonprofit corporation with a mission of bridging the gap between research and commercialization of technology, fostering collaboration among diverse industries, lowering research and development costs of CCAM member companies, and training the next generation of technology leaders. He mentioned that one of CCAM's goals is to help foster the establishment of an advanced manufacturing innovation zone in Southern Virginia. Sixteen private companies have partnered to form CCAM. Public members of CCAM include the University of Virginia, Virginia Polytechnic Institute and State University, Virginia State University, and NASA. CCAM is a 62,000 square-foot facility located in Prince George County adjacent to Rolls-Royce's new manufacturing plant. CCAM employs a chief technology officer, a manager of administration, six full-time research specialists, and 20 to 25 full-time students.

Dr. Johnson indicated that there are three levels of CCAM membership. Member companies can be founding or organizing members, each of whom have made a \$3 million commitment to CCAM. Tier 2 members participate in generic research and are granted a non-royalty non-exclusive right to use any intellectual property produced by the research. Tier 3 members do not contribute funds to

CCAM but may contribute machinery and equipment for use by CCAM.

Dr. Johnson stated that CCAM is committed to accelerating technology into markets and demonstrating on real problems. He indicated that the sharing of CCAM facilities, CCAM personnel, and research by member companies lowers the research and development costs incurred by each member. CCAM will be involved in training the next generation of technology leaders by providing market-ready experiences for students and connecting students with industries.

Dr. Johnson mentioned that CCAM performs both directed research and generic research for its member companies. Directed research is research conducted exclusively for a member company which becomes the owner of any intellectual property resulting from the research. When CCAM undertakes generic research, all intellectual property related to the research is owned by CCAM but each member company retains a non-royalty non-exclusive right to use the property. Next year CCAM will perform \$9 million in funded research paid by member companies.

CCAM operates a workforce development program that has been funded by the Virginia Tobacco Indemnification and Community Revitalization Commission. The focus of the program is to develop the skills needed by machinists, welders, and industrial machinery mechanics and for such persons to acquire industry-recognized credentials. Dr. Johnson related that three regional centers of excellence for training are being created to each produce credentialed machinists, welders, and industrial machinery mechanics. The objective is for each regional center to produce 75 certified graduates annually beginning in 2017.

STAMP Model

Michael Cassidy, President and Chief Executive Officer, The Commonwealth Institute for Fiscal Analysis

Mr. Cassidy commented on the STAMP model used by the Thomas Jefferson Institute for Public Policy. The STAMP model is a dynamic model that can forecast changes in Virginia in private employment, capital investment, real disposable income, and real gross domestic product as a result of changes to Virginia's state and local taxes. The TJI has used the STAMP model to forecast changes in these economic measures under a proposal to eliminate the local BPOL, machinery and tools,

and merchants' capital taxes and to apply the retail sales tax to selected services to offset the loss in local revenues. Mr. Cassidy indicated that his top concerns with the STAMP model used to evaluate the TJI's proposal are that additional revenue and job growth projections are too positive and localities are heavily reliant on the BPOL, machinery and tools, and merchants' capital taxes.

The Beacon Hill Institute at Suffolk University maintains a STAMP model. Mr. Cassidy stated that the model's conclusions are driven by its assumptions with regard to how workers will respond to a cut in their income taxes, how investors will respond to lower taxes on investments, how consumers will respond to higher sales taxes, and the value of government services to a state's economy. He noted that the STAMP model assumes high-income individuals are roughly three times more sensitive to changes in their after-tax incomes than was assumed by the Congressional Budget Office. Mr. Cassidy concluded that the STAMP model assumes that Texas investors are twice as responsive to lower taxes on investments as compared to Pennsylvania and North Dakota investors. He suggested that the STAMP model has no data on how consumers will respond to higher sales taxes, so it simply assumes that consumption will not change. Mr. Cassidy also stated that the STAMP model underestimates the value of government services to a state's economy because it does not acknowledge that government hires people directly and can spend money in a way that directly creates jobs in the private sector.

Specifically with regard to the STAMP model maintained for Virginia, Mr. Cassidy noted that the responsiveness of Virginia investors to lower taxes is based upon estimates for Texas investors. Mr. Cassidy related that because the Virginia STAMP model has no data on how consumers will respond to a sales tax increase, it simply assumes consumption in Virginia would not change. Mr. Cassidy pointed out that this is particularly important in light of any proposal to apply the retail sales tax to services to generate revenue to replace local revenues from the elimination of the BPOL, machinery tools, and merchants' capital taxes.

Mr. Cassidy also spoke on the TJI's proposal to eliminate the local BPOL, machinery and tools, and merchants' capital taxes and to replace the loss in local revenues from a retail sales tax on services. One requirement of the TJI's proposal is to exempt business-to-business services from sales tax. Mr. Cassidy suggested

that this would be highly unlikely because some of the services to be taxed under the proposal are purchased frequently and even overwhelmingly by businesses. He concluded that business purchases are an enormous part of Virginia's tax base. Mr. Cassidy also suggested that middle class and low-income households would bear a greater financial burden from the extension of the sales tax to services because these households pay a larger percentage of their disposable income on rent, public transportation, personal services, etc. Mr. Cassidy stated it would not be politically viable to expand the sales tax to certain services. For instance, only three states impose a sales tax on services provided by attorneys, and different scenarios under the Institute's proposal would call for extending Virginia's retail sales tax to legal services.

Mr. Cassidy ended by suggesting that reform of the local BPOL tax would address many of the concerns of stakeholders on this issue.

Fairfax County—Local BPOL Tax

Kevin Greenlief, Director, Department of Tax Administration, Fairfax County

Mr. Greenlief presented the experiences of localities with the local BPOL tax with special emphasis on Fairfax County's experiences.

The BPOL tax was paid by 40,814 businesses in Fairfax County (County) in 2012 and generated \$152 million. The tax accounted for approximately 4.5 percent of the County's general fund revenue. If the BPOL tax were eliminated, the County could replace the revenue by increasing its real estate tax rate by \$.08 per \$100 of value. According to Mr. Greenlief, residential homeowners would pay 80 percent of the real estate tax increase. Of the 40,814 businesses paying a BPOL tax to Fairfax County, 16,375 or 40 percent paid a flat tax averaging \$38 and 11,418 or 28 percent paid an average tax of \$552. Conversely, businesses with gross receipts in the top one percent realized on average \$72 million in gross receipts and paid 43.2 percent of the total BPOL taxes collected by Fairfax County in 2012.

Fairfax County issues 16 different classes of business licenses. Its average BPOL tax rates in 2012 were approximately 58 percent of the maximum BPOL tax rates allowed under state law. Mr. Greenlief stated that commercial real estate values and growth in BPOL revenues in Fairfax County each averaged four percent per year since 2006 with commercial real estate values exhibiting much more volatility.

The BPOL tax generated \$152 million in Fairfax County in 2012, approximately 4.5 percent of the County's general fund revenue.

*The Joint Study of
Local Tax Structure
heard information
about the tax
restructuring proposal
of The Thomas
Jefferson Institute for
Public Policy.*

Mr. Greenleaf also reviewed a survey of Virginia's localities with regard to the BPOL tax compiled by Fiscal Analytics, Ltd., in September of this year. The survey captured 85 percent of the total BPOL revenue paid in Virginia in FY 2012. The survey revealed that 60.6 percent of businesses in the Commonwealth either paid a flat BPOL fee or collected under \$100,000 in gross receipts for the year meaning that these businesses paid less than \$100 for a BPOL license. Financial, real estate, and professional services businesses generated 31 percent of the survey revenue; repair, personal, and business services businesses generated 26 percent; retail businesses generated 25 percent; contracting businesses generated seven percent; wholesale businesses generated five percent; and six percent of the survey revenue was generated by other businesses.

Mr. Greenleaf concluded by reviewing for the Commission members a Joint Legislative Audit and Review Commission (JLARC) briefing on changing the BPOL tax from a tax on a business's gross receipts to a tax on a business's net income. JLARC forecasted that BPOL revenues collected by all localities in Virginia would be reduced by 95 percent if the BPOL tax were modified to be imposed on net income. Retailers and wholesalers would see the largest reduction in BPOL taxes followed by unprofitable or low-profitable businesses and then C corporations.

If the BPOL tax was imposed on net income and the General Assembly wanted to maintain the same level of local revenue, this would result in profitable businesses seeing their BPOL tax increase an average of 40 percent through increases in BPOL tax rates. Sole proprietorships, high profitability businesses, and repair, personal, and business service providers would see a disproportionate increase in their BPOL taxes while retailers, C corporations, and unprofitable or low-profitable business would still pay lower BPOL taxes. JLARC suggested that making BPOL a net income tax would make it far more difficult for businesses to understand and local governments to administer.

BPOL generated \$683 million in local revenues in FY 2012. JLARC indicated that the tax accounted for 4.2 percent of local revenues on average but 9.5 percent of the revenues for towns. Ninety percent of the BPOL revenues in Virginia in FY 2012 were generated by businesses with gross receipts in excess of \$1 million.

Thomas Jefferson Institute for Public Policy

Michael W. Thompson, Chairman and President, The Thomas Jefferson Institute for Public Policy

Mr. Thompson explained the tax restructuring proposal of the TJI and briefed the Commission members on STAMP model projected results under different scenarios. The TJI's tax restructuring proposal requires several constants: elimination of the local BPOL, machinery and tools, and merchants' capital taxes; extending the retail sales tax to services and using a portion of the additional revenues to fully reimburse local governments for the loss in revenue from the elimination of these local taxes; keeping in place the sales tax exemption for health care; providing that business-to-business sales of services are exempt from any retail sales tax; revenue neutrality; and the creation of thousands of new jobs, hundreds of millions of dollars in new investment, and billions of dollars in disposable income and gross domestic product.

In addition to the constants noted above, one scenario studied by the TJI would also eliminate Virginia's two percent and three percent individual income tax brackets, reduce the tax rate on individual income between \$5,000 and \$17,000 from five percent to 4.55 percent, and reduce the tax rate on individual income in excess of \$17,000 from 5.75 percent to five percent. For this scenario the STAMP model forecasts the creation of 79,000 jobs, \$287 million in new capital investment, and an increase of \$2.85 billion in real disposable income and \$8.4 billion in real gross domestic product. Under a different scenario in which the sales and use tax is imposed on food at a rate of one percent, the two percent and three percent individual income tax brackets are eliminated, and the five percent and 5.75 percent individual income tax brackets are both reduced by 4.5 percent, the STAMP model forecasts the creation of 78,400 jobs, \$447 million in new capital investment, and an increase of \$3.43 billion in real disposable income and \$6.35 billion in real gross domestic product. Under a third scenario in which the sales and use tax on food is eliminated, the two percent and three percent individual income tax brackets are eliminated, and the five percent and 5.75 percent individual income tax brackets are both reduced by three percent, the STAMP model forecasts the creation of 68,500 jobs, \$439 million in new capital investment, and an increase of \$3.07 billion in real disposable income and \$5.52 billion in real gross domestic product.

Mr. Thompson concluded that under all of the scenarios studied by the TJI there would be a significant number of new jobs created and a significant increase in capital investment, real disposable income, and real gross domestic product in Virginia.

December 2, 2013

The Small Business Commission and the Manufacturing Development Commission met jointly in Richmond to hear presentations on services provided to Virginia's manufacturers by public and private entities and a presentation explaining how the Thomas Jefferson Institute for Public Policy's State Tax Analysis Modeling Program (STAMP) works.

Services to Virginia Manufacturers

Bill Donohue, Interim Executive Director, GENEDGE ALLIANCE

Mr. Donohue began by emphasizing the importance of manufacturing to the United States. According to the National Association of Manufacturers, manufacturers perform 70 percent of industrial research, develop 80 percent of patents, and employ 64 percent of scientists and engineers. Mr. Donohue stated that manufacturing supports approximately 18.6 million jobs in the United States.

Beginning in 2001, the United States trade balance for advanced technology products turned negative, reflecting the increased production of advanced technology products offshore. Mr. Donohue commented that the shift of businesses to an "asset-light" model to increase stock market valuations has led to many businesses moving outside of the United States or outsourcing manufacturing production offshore.

GENEDGE ALLIANCE is the business name for the A.L. Philpott Manufacturing Extension Partnership headquartered in Martinsville, which was created by the General Assembly to create and maintain industrial and manufacturing jobs. GENEDGE ALLIANCE provides high-quality general consulting services to manufacturing technology and industrial enterprises located in Virginia. It is one of 60 affiliates of the National Institute of Standards and Technology Manufacturing Extension Partnership. Its budget is approximately \$3.75 million, of which \$1.7 million or 45 percent is generated from fees and other income relating to consulting services it provides. Another \$1.275 million or 34 percent of its budget is derived from National Institute of Standards and Technology cooperative agreements. Commonwealth grants

of approximately \$400,000 make up another 10 percent of GENEDGE ALLIANCE's budget. GENEDGE ALLIANCE supports 29 full-time equivalent positions.

GENEDGE ALLIANCE's consulting services are aligned with the unique needs of its manufacturing clients. It offers growth strategies to help manufacturers increase market share, optimization strategies to increase the net income earned by manufacturers, and enabling strategies to minimize the costs of doing business for manufacturers.

For FY 2011 through 2013, GENEDGE averaged \$26.1 million in sales impact for manufacturers, \$112.1 million in cost savings for manufacturers, and \$159 million in new investments made by manufacturers. It provided services to an average of 233 clients per year; in FY 2013, it provided consulting services to 126 clients. Over this same period, its efforts led to an average of 636 jobs per year being retained and an average of 174 new jobs per year being created. Between 2000 and 2012, GENEDGE's efforts led to 8,000 jobs being retained.

Mr. Donohue stated that currently 86 percent of manufacturers in Virginia employ fewer than 50 workers. Just a decade ago, under 60 percent of Virginia manufacturers employed fewer than 50 workers. Moreover, over the last decade, Virginia has lost 200,000 manufacturing jobs. Mr. Donohue believes that the jobs lost will not be repatriated, but that Virginia can grow new advanced manufacturing jobs to help replace the jobs lost.

Mr. Donohue mentioned that underserved manufacturing sectors in Virginia include chemicals, machinery, computers, physical research and development, wood products, furniture, and social research and development. Most of the growth in these underserved manufacturing sectors is from small businesses with fewer than 50 employees. The predominant concern of small businesses is expanding into new markets and finding the necessary capital to fund the expansion. Other concerns include the current economy, government regulations, and health care costs.

GENEDGE faces barriers in providing services to small manufacturers. These include familiarity or establishing relationships, tailoring its consulting services to the needs of small manufacturers, and a preference of small businesses to retain control of their operations by relying on in-house resources.

Mr. Donohue concluded by reviewing programs in other countries geared to providing economic and other assistance to manufacturers,

The National Association of Manufacturers reports that manufacturers perform 70 percent of industrial research, develop 80 percent of patents, and employ 64 percent of scientists and engineers.

Programs in foreign countries have a long term focus on manufacturing and offer multiple services to support it.

including Canada's Industrial Research Assistance Program, Germany's Fraunhofer Institutes, Taiwan's Industrial Technology Research Institute, Britain's Catapult Initiative, and France's Carnot Institutes. Clients of Germany's Fraunhofer Institutes are small, privately owned manufacturing and technology companies. The Fraunhofer Institutes provide just under \$2 billion in funding each year to Germany's manufacturing companies. In comparison, funding to United States manufacturers from the federal and state governments is approximately \$175 million each year. Programs in foreign countries have a long-term focus on manufacturing and offer customized and flexible field services, substantial and sustained funding, well-equipped facilities and highly trained staff, links to clusters that support manufacturing, support for start-ups, and training for students in a hands-on environment.

Dr. Jaime A. Camelio, Associate Professor, Virginia Polytechnic Institute and State University, Center for High Performance Manufacturing

Dr. Camelio began his presentation by pointing out that motivating future workers to work in manufacturing industries is an issue for manufacturers. Manufacturing does not readily lend itself to hands-on training.

Dr. Camelio then discussed the Center for Innovation-based Manufacturing (CIBM) at Virginia Tech. CIBM was created four years ago to bring new ideas to manufacturing. Key components of CIBM include manufacturing innovation, manufacturing scale-up, local industry applied research, student-driven initiative support, and continuing education and functional problem solving. CIBM helps bring ideas to actual demonstration facilities.

Dr. Camelio also discussed the Center for High Performing Manufacturing (CHPM) at Virginia Tech, which has been operational since 2001. The original partners of CHPM were Virginia Tech, the College of William and Mary, James Madison University, and Virginia State University. CHPM was originally conceived to provide services to members, but this policy has been relaxed. Dr. Camelio explained that the mission of CHPM is to provide leadership to solve the challenges of manufacturing firms, to provide sponsorship to swiftly and appropriately respond to industry inquiries, and to foster stewardship to direct and coordinate resources for the development of interdisciplinary manufacturing education, research, and services. CHPM's objectives are to assist

manufacturing firms in becoming high performance producers by providing a one-stop source of manufacturing research and to enhance the manufacturing research competitiveness of Virginia universities in the federal marketplace.

Dr. Camelio indicated that CHPM serves as a single point of contact to the full capabilities of the Virginia Tech College of Engineering. Manufacturers can seek assistance in process improvement through CHPM. It is the center for manufacturing grant funding proposals to state, federal, and industrial organizations. Dr. Camelio stated that CHPM is a repository for information on advanced manufacturing topics.

CHPM's total revenues in FY 2013 were \$1.1 million. It received \$342,000 in private sponsored research dollars and \$253,000 in public sponsored research dollars.

STAMP Model

Paul Bachman, Director of Research, The Beacon Hill Institute at Suffolk University

Mr. Bachman explained the STAMP model developed by The Beacon Hill Institute (BHI) at Suffolk University. This is a dynamic model that can be used to forecast changes to Virginia's employment and economy as a result of changes in Virginia's state and local taxes.

BHI's approach to tax policy that is incorporated into its forecasting models is (i) direct taxes are penalties on working and saving, (ii) subsidies are rewards for leisure and dissaving, (iii) supply equals demand, and (iv) forecasting analysis needs to be dynamic.

Mr. Bachmann stated that sales and local license (BPOL) taxes increase the price of (i) goods to the final user, (ii) inputs to suppliers, and (iii) investment equipment. Capital taxes such as the local merchants' capital tax increase the after-tax rental cost of capital, which sometimes results in businesses replacing capital with labor. Mr. Bachmann indicated that personal income taxes increase the after-tax rental rate of both labor and capital, which reduces the quantity demanded and supplied for each.

One scenario modeled by BHI is to extend Virginia's retail sales taxes to all services except health care; eliminate the local machinery and tools, merchants' capital, and BPOL taxes; eliminate the individual income tax on the first \$5,000 of taxable income; and reduce the five percent and 5.75 percent individual income tax bracket rates by 9.25 percent each. Mr.

Bachman reported that the STAMP model forecast for this scenario would be 79,800 new jobs created, \$328 million in new investment, \$3.2 billion in additional real disposable income, \$8.9 billion in real gross domestic product, and a \$36 million revenue gain.

Promoting Manufacturing as a Career

Katherine DeRosear, Director of Workforce Development, and Alice B. Scott, Vice President, Member Services, Virginia Manufacturers Association

Ms. DeRosear and Ms. Scott touched upon efforts of the Virginia Manufacturers Association (VMA) to promote manufacturing as a career and to match job-seeking skilled workers with manufacturers who are hiring. On April 30, the VMA launched its “Dream it. Do it. Virginia” (DIDIVA) campaign website to promote these objectives. Virginia is one of 25 states involved in this outreach. Since April 30 there have been over 10,000 visitors to the website. Ms. DeRosear mentioned that VMA’s results and long-term objectives for the campaign include (i) annually reaching over 10,000 teachers, students, counselors, and parents; (ii) establishing DIDIVA partners in all 15 of the Commonwealth’s Workforce Investment Board regions; (iii) certifying 11,000 individuals a year in critical skilled occupations; (iv) hosting at least one manufacturing technology summer camp in each of the 15 Workforce Investment Board regions; (v) supporting the development of K through 12 curriculum aligned with Mechatronics and Manufacturing Technology skills; (vi) pursuing public regulations and resources to ensure that 100 percent of Virginia’s workforce is certified “work ready”; and (vii) assisting at least 200 transitioning veterans pursue careers in manufacturing annually through Military2Manufacturing.

Ms. DeRosear stated that each year there are approximately 67,000 job openings in manufacturing in Virginia. However, for 41,000 of these jobs, workers do not possess all of the necessary skills. The target audience of DIDIVA includes youth, dislocated workers, unemployed individuals, career changers, veterans, teachers, career coaches, community colleges, higher education centers, and industry. Ms. DeRosear explained that DIDIVA also offers manufacturing technology camps, which provide participants with hands-on experience in applied manufacturing technologies. Ten

manufacturing technology camps over the last three summers have reached more than 700 students, teachers, parents, counselors, business leaders, and community partners. Twenty-one participants in these camps were awarded scholarships for postsecondary education.

Ms. Scott concluded the presentation with an online demonstration of the DIDIVA website showing how a skilled person seeking a job could be matched to a hiring manufacturer.

Every year, there are approximately 67,000 job openings in manufacturing; however, for 41,000 of these jobs, workers do not possess all of the necessary skills.

JOINT STUDY OF LOCAL TAX STRUCTURE

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Virginia Code Commission

October 23, 2013

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

Obsolete Laws Report

Mindy Tanner, Communications and Research Associate, Division of Legislative Services

Ms. Tanner presented §§ 23-8, 55-96, 56-46.3, and 56-122 of the Code of Virginia (Code) as potential candidates for amendment or repeal. Ms. Tanner reviewed the rationale and background for each recommendation. The Commission approved introducing legislation to (i) repeal § 23-8; (ii) replace references to “Public Utility Holding Company Act of 1935” with “Public Utility Holding Company Act of 2005, which is set out at §§ 1261 et seq. of the Energy Policy Act of 2005” in § 56-46.3; and (iii) strike “and shall comply with the provisions of §§ 56-266 to 56-269” in § 56-122. The Commission deferred action on the recommendation to delete the language “except as provided in subsection (5) of § 8.9-302” in § 55-96 until staff determines whether a corresponding section exists in Title 8.9A.

Recodification of Title 33.1

Nicole Brenner, Attorney, and Alan Wambold, Senior Research Associate, Division of Legislative Services

Ms. Brenner informed the Commission of two lawsuits before the Supreme Court of Virginia that could affect the Commission’s decision to move provisions regarding the Public-Private Transportation Act (PPTA) from Title 56 to the new Title 33.2. One case involves several issues, including whether certain tolls in the Tidewater area were taxes and the constitutionality of the PPTA. A decision in this case is expected on October 31, 2013. The other case is an appeal from a State Corporation Commission decision in which the Commission ruled it lacked jurisdiction in the case based on the definition of “public utility.” Ms. Brenner explained that the terms of the PPTA are affected by the definitions in Title 56. Ms. Brenner offered two options: (i) proceed with the current plan to move the PPTA to Title 33.2 and add it to the list of substantive changes if the Commission’s decision is affirmed or (ii) leave the PPTA in Title 56 with a “Reserved” chapter in Title 33.2

and then add the PPTA during the 2015 Session of the General Assembly.

After discussion and receipt of comments from Edward Mullen of Reed-Smith and Phil Abraham of Vectre Corporation, the Commission requested staff to consult with the work group and other interested parties for a mutually agreed-upon recommendation.

Ms. Brenner advised that the only other outstanding issue is the reorganization of the article on the Northern Virginia Transportation Commission, which is under review by the work group.

Ms. Brenner and Mr. Wambold presented the following chapters, all of which the Commission had previously reviewed, with the exception of Chapter 22 (Chesapeake Bay Bridge and Tunnel District and Commission):

- Highway Systems (Chapter 3).
- Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over Dams (Chapter 4).
- HOV Lanes and HOT Lanes (Chapter 5).
- Toll Facilities and Ferries (Chapter 6).
- Local Authority over Highways (Chapter 7).
- Offenses Concerning Highways (Chapter 8).
- Woodrow Wilson Bridge and Tunnel Compact (Chapter 13).
- Transportation Trust Fund (Article 5 of Chapter 15).
- Highway Maintenance and Operating Fund (Article 6 of Chapter 15).
- Chesapeake Bay Bridge and Tunnel District and Commission (Chapter 22).

Items the Commission discussed or on which it took action can be viewed on the Commission website.

November 20, 2013

The Commission met in Richmond with Senator John Edwards, chair, presiding.

Administrative Law Advisory Committee

Thomas Lisk, Chair, Administrative Law Advisory Committee

Mr. Lisk presented the Administrative Law Advisory Committee’s annual report. Mr. Lisk reported that ALAC recommends proposed legislation to amend § 2.2-4026 of the Administrative Process Act to clarify the date of adop-

The Virginia Code Commission heard information about the recodification of Title 33.1.

tion or readoption of a regulation for purposes of appeal under the Rules of Supreme Court of Virginia. The purpose of the proposed legislation is to promote uniformity and eliminate uncertainty, which has arisen due to conflicting court opinions. The proposed amendment provides that the date of adoption or readoption of a regulation for purposes of appeal is the date of the public meeting at which an agency takes final action on a final regulation or, if adopted outside a public meeting, the date the final regulation is filed with the Registrar of Regulations. The members discussed the proposal and expressed concerns about whether it is reasonable to believe that the interested public would be aware of when regulations are adopted at a public meeting.

After discussion, the Commission directed staff to revise the draft to establish the adoption date as the date filed with the Registrar of Regulations or the date adopted at a public meeting and suggested using Rule 5:9 (a) of the Rules of the Supreme Court as a model. Rule 5:9 (a) provides that “A notice of appeal filed after the court announces a decision or ruling—but before the entry of such judgment or order—is treated as filed on the date of and after the entry.” The effect of the amendment would be to give someone two opportunities to file an appeal: (i) 30 days from the date the action is taken at a public meeting and (ii) 30 days from the date the action is published in the *Virginia Register of Regulations*.

Mr. Lisk reported that ALAC revised the Hearing Officer Deskbook, which ALAC previously reviewed in 2009. Subsequent to ALAC’s 2009 review, the Office of the Executive Secretary of the Supreme Court asked ALAC to conduct periodic reviews of the deskbook. The work group conducted an online survey of all approved hearing officers for input and made technical changes, checked references, and added hyperlinks to external resources where applicable. The revised deskbook will be returned to the Office of the Executive Secretary for publication prior to the hearing officer training session in December.

Finally, ALAC continues to review the Adjudication and Judicial Review provisions of the Model State Administrative Procedure Act.

Mr. Lisk advised that several ALAC members’ terms will expire in December. The Commission reappointed Katya Herndon, Thomas Lisk, Eric Page, Alexander Skirpan, and Brooks Smith to ALAC following the expiration of their terms in December 2013.

Obsolete Laws Report

Mindy Tanner, Communications and Research Associate, and Jescey French, Senior Attorney, Division of Legislative Services

Mindy Tanner advised that staff had completed the additional research requested by the Code Commission at its last meeting regarding the proposed amendment to § 55-96 of the Code of Virginia. Jescey French explained that in 2000, when Article 9 was revised to Article 9A, subsection (5) of § 8.9-302 was intentionally left out of Title 8.9A because it was not a uniform law. At staff’s recommendation, the Commission agreed to introduce legislation to strike the phrase “except as provided in subsection (5) of § 8.9-302” in § 55-96 as obsolete.

The Virginia Code Commission heard an update from the Administrative Law Advisory Committee.

Recodification of Title 23

Ryan Brimmer, Attorney, Division of Legislative Services

Mr. Brimmer advised that he and Tom Stevens have been assigned to staff the Title 23 (Educational Institutions) recodification, which will begin in 2014. Staff presented a list of entities invited to participate in the recodification effort and stated that 23 entities have confirmed their interest, but staff is waiting to hear back from 13 entities. The Commission unanimously approved establishing the work group as provided in the list of entities presented by Mr. Brimmer, with the understanding that a particular individual for an entity may change.

Reorganizing and Renumbering of the Code of Virginia

The chair stated that he would like to reinstate a complete reorganization and renumbering of the Code of Virginia to be completed in 2019. The Commission initiated an effort in 2005 to reorganize and renumber the Code in 2007; however, the project did not go forward due to opposition from the Supreme Court of Virginia and others who had concerns about the monetary impact of a complete renumbering of the Code. The 2007 Code of Virginia reorganization project was effectively terminated after HB 740 (2006), which provided savings and transition provisions for when the Code of Virginia is renumbered, was passed by indefinitely by the House Rules Committee. The chair indicated that the Supreme Court is more likely to support the project now as the Chief Justice has changed and two former Commission members are now justices. Mr.

The Virginia Code Commission discussed a possible reorganization and renumbering of the Code of Virginia.

Miller emphasized the importance of the Commission having specific budget information before making a decision to proceed, given the nature and scope of the project. In order to gain a clear understanding of the impact and costs of such a project, Mr. Miller suggested that the chair establish a task force, consisting of two members of the Commission; representatives from the Supreme Court of Virginia, the Virginia State Police, the Division of Legislative Services, and other state agencies identified as being most affected by the project; and private attorneys. The chair noted that the Judicial Council should be included and should be in agreement with the proposal. Senator McDougle stated it was important for the Commission to have a number on the cost to the legal community, and reiterated the need for private attorneys on the task force. Mr. Miller indicated that after the information and costs are collected, the Joint Legislative Audit and Review Commission or the staff of the money committees should be asked to review the numbers.

The consensus of the Commission was for the chair to appoint a task force to determine the overall fiscal impact of reorganizing and renumbering the entire Code of Virginia and that such task force would report to the Commission in time for the 2015 Session of the General Assembly.

Title 33.1 Recodification

Nicole Brenner, Attorney, Division of Legislative Services

Ms. Brenner presented the final report and executive summary for the Title 33.1 recodification. She noted that the executive summary explains changes made throughout proposed Title 33.2 and specifically identifies (i) changes made due to rules of construction, (ii) changes made to apply more specifically to the subject matter of the title, and (iii) changes that are considered substantive in nature. Ms. Brenner also presented the proposed enactment and savings clauses for the draft bill.

Next, Ms. Brenner reviewed three unresolved issues from prior meetings:

- Regulations language - §§ 33.2-241, 33.2-319, 33.2-327, 33.2-334, and 33.2-340. The Commission had asked for regulations language to be more specific with regard to the promulgating entity. Ms. Brenner reviewed the proposed language in each section that now identifies or describes the regulations as “Department” or “Board” regulations.
- Public-Private Transportation Act of 1995

(§ 56-556 et seq.): The work group recommends moving the PPTA into proposed Title 33.2 and adding a note in the executive summary that the relocation of sections, articles, or chapters from other titles of the Code is not intended to have any substantive effect on their interpretation.

- Transportation District Act of 1964: The issue was how to clearly identify the Northern Virginia Transportation District in new Chapter 19. In each case, the entire name of the commission is stated.

The Commission had no objections to the matters presented. The Commission unanimously approved the final report on the recodification of Title 33.1 and agreed to go forward with introducing legislation to enact new Title 33.2.

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Virginia Housing Commission

November 20, 2013

The Virginia Housing Commission (Commission) met in Norfolk with Senator Mamie Locke, chair, presiding.

Work Group Updates

The Commission heard updates from the Affordability, Real Estate Law and Mortgages; Common Interest Communities; Housing and Environmental Standards; and Neighborhood Transitions and Residential Land Use Work Groups about potential legislation for the upcoming General Assembly session. The Commission met again on December 11, 2013, in Richmond to vote on legislation to recommend for the upcoming session and to hear updates from the Federal Reserve Bank on housing and mortgages figures.

VIRGINIA HOUSING COMMISSION

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Joint Commission on Technology and Science

November 26, 2013

The Joint Commission on Technology and Science (JCOTS) met in Richmond to consider recommendations developed by its advisory committees during the 2013 interim. Copies of the bills developed by the advisory committees, as well as detailed summaries of the work of each advisory committee, are available on the JCOTS website.

Computer Crimes Advisory Committee

The Computer Crimes Advisory Committee, chaired by Delegate Ken Plum, was referred three bills for review from the 2013 Session of the General Assembly: HB 2050/SB 1030 related to search and seizure of computers and SB 1173 related to computer trespass. The advisory committee recommended amended versions of the bills, and the membership of JCOTS voted to recommend the amended bills to the 2014 Session of the General Assembly.

Cyber Security Advisory Committee

The Cyber Security Advisory Committee, chaired by Delegate Tom Rust, was referred SB 830 from the 2013 Session of the General Assembly for review. The bill would allow for overseas military members to return absentee ballots electronically. The advisory committee recommended amendments to the bill related to security measures and technology concerns. At the JCOTS meeting, one additional amendment was made to specify that if an overseas absentee ballot was returned via facsimile, it must be a secure facsimile. A majority of the members of JCOTS present at the meeting, with three dissenting votes, recommended the amended bill to the 2014 Session of the General Assembly.

Broadband and Education Advisory Committee

The Broadband and Education Advisory Committee, chaired by Delegate Kathy Byron, was referred three bills from the 2013 Session of the General Assembly: HB 1777, related to use of open source textbooks in higher educa-

tion, and HB 1915 and HB 2286, both concerning use of electronic textbooks and access to broadband by students. The committee did not make any recommendation regarding HB 1777. Delegate Eileen Filler-Corn, patron of HB 1777, thanked the advisory committee for the review of the bill and the opportunity to open discussions regarding the use of open resources.

The advisory committee did recommend an amended version of HB 2286 that would require the Department of Education and the Center for Innovative Technology to gather data about electronic device ownership and Internet access of each student at public schools. Delegate Byron indicated that while the goals of the bill were laudable, she did not agree with the draft. No motion was made for JCOTS to recommend the amended bill to the General Assembly.

The advisory committee also recommended amendments to HB 1915 that would require schools that adopt electronic textbooks to have a plan in place to ensure that all students have access to a personal computer device and Internet access in their homes. A majority of the members of JCOTS, with two dissenting votes, recommended the bill to the 2014 Session of the General Assembly. However, members voting in favor of the bill noted that some of the language might need additional work during Session.

Intellectual Property Advisory Committee

The Intellectual Property Advisory Committee, chaired by Delegate Joe May, was referred two bills from the 2013 Session of the General Assembly for review: HB 1738, relating to invention development contracts, and HB 2064, related to the Uniform Trade Secrets Act. The advisory committee recommended amendments to HB 1738 to afford greater protections to customers entering into invention development contracts. The members of JCOTS recommended the amended bill to the 2014 Session of the General Assembly.

In reviewing HB 2064, the advisory committee decided that it was not wise for Virginia to adopt changes that would make the law ununiform with the 47 other states that have adopted the Uniform Trade Secrets Act. However, in the course of discussion, two other issues arose. The first regarded changes in federal law related to trade secret defenses that creates some ambiguity in the state law. The advisory

The Joint Commission on Technology and Science received updates from its advisory committees about possible legislation.

The Joint Commission on Technology and Science heard information about the need for voting system upgrades.

committee recommended that JCOTS bring these issues to the attention of the Uniform Law Commission and request that the uniform law be reviewed in light of these changes. The advisory committee also developed a proposal that would allow the holder of a trade secret to register the trade secret with the State Corporation Commission, similar to how trademarks are currently registered. The registration would serve as evidence of the existence of a trade secret in any court in Virginia. At the JCOTS meeting, several questions emerged as to how this process would actually work. Delegate May indicated that the idea had substantial merit, but needed additional work, and he recommended that the issue continue to be studied during the 2014 interim.

Identity Management Advisory Committee

The Identity Management Advisory Committee, chaired by Senator John Watkins, continued discussions begun in previous interims regarding identity management in the Commonwealth. An advisory committee participant had proposed legislation related to the liability of private identity providers. However, the issue was very complex, and Senator Watkins indicated that the legislation needed further study and consideration to take into account the affect on the state and various sectors and industries, as well as to consider any unintended consequences.

After the completion of the advisory committee reports, Don Palmer, the Secretary of the State Board of Elections, provided JCOTS with a brief update on the need for voting system upgrades. He indicated that many localities have outdated direct recording electronic voting systems, or DREs. Several years ago, the General Assembly prohibited the purchase of additional DREs. However, because of scarce resources, localities are waiting until the last minute to purchase upgraded equipment. The older, outdated equipment contributes to delays at polling places on election day. He indicated that planning to transition to the next generation of voting equipment is essential and needs to begin now in order to prepare for the 2016 election.

Public Comment

At the close of the meeting, Delegate Rust called for public comment. A representative of a voting equipment company said that he supported Secretary Palmer's comments about the need to plan for voting equipment upgrades.

Concluding Remarks

Before adjourning, Delegate Rust noted that this would be the last JCOTS meeting for Delegates Joe May and Harry Purkey and thanked them both for their service.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

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Small Business Commission

December 2, 2013

The Small Business Commission (Commission) held its final meeting of the 2013 interim in Richmond. The meeting was called to order by Senator Frank Ruff, chair.

Virginia Small Business Partnership

Tim Ciampaglio, President
Paul Miller, Board Chair
Tom Dewitt, Board Member

Mr. Ciampaglio stated that the Virginia Small Business Partnership (VSBP) supports small business advocacy through policy-focused research. The organization was formed in 2010 with its primary focus on an annual Virginia Small Business Summit (Summit). The event gathers small business leaders, politicians, and other parties interested in improving the small business climate. The Summit consists of structured discussions in five policy areas with the objective of establishing recommendations in each of the areas. The policy areas include (i) workforce development, (ii) health care, (iii) public-private partnerships, (iv) tax policy, and (v) transportation. The recommendations that are developed from the Summit are compiled, published, and presented to key state legislators for consideration. Future plans include establishing more localized briefings and smaller summits that will take place around the state. The VSBP has over 200 active supporters from the state's small business community and has established a large database of small business leaders from across the Commonwealth.

The VSBP's leadership is composed of small business owners in various industries. Mr. Ciampaglio, who serves as VSBP's president, is also the founder and president of Miller/Wenhold Capitol Strategies located in Fairfax. Mr. Miller is also the founder and president of the Pharos Group located in Stafford and Mr. DeWitt serves as the president and CEO of SNVC, also located in Fairfax.

Mr. Ciampaglio proceeded to present the key policy recommendations from the 2013 Summit.

WORKFORCE DEVELOPMENT

- Form partnerships between educational institutions, the government, and local businesses to align curriculums with business needs.

- Use currently available resources to match jobseekers with employers.
- Place less emphasis on four-year college degrees.
- Ensure that graduating high school students are ready for either the workforce or college; emphasize "soft skills."

HEALTH CARE

- Educate health care consumers on the impact of lifestyle choices.
- Expand Medicaid as part of a significant reform of the Medicaid system.
- Consider the recommendations being studied and made by the Virginia Center for Health Innovation.

PUBLIC-PRIVATE PARTNERSHIPS (P3)

- Create safeguards to protect privacy of private companies' bids.
- Incentivize manufacturing by lowering taxes.
- Close loopholes in the procurement process that allow inefficiencies and abuse.
- Create a P3 online toolkit to connect private companies with projects.
- Develop legislation requiring certain projects to consider P3.

TAX POLICY

- Eliminate the BPOL, machine and tools, and merchants' capital taxes and replace revenues by broadening the sales tax to include currently exempt industries.

TRANSPORTATION

- Establish performance metrics to determine where transportation dollars are allocated and to evaluate how they perform.
- Transit agencies should be able to make management decisions without government interference.
- The transportation needs of local communities and interstate commerce should be balanced.
- Deploy transportation demand management (TDM) strategies.

The Small Business Commission heard policy recommendations developed at the Virginia Small Business Summit.

Blueprint Virginia

Barry Duval, Virginia Chamber of Commerce

The Small Business Commission heard from the Virginia Chamber of Commerce on the Blueprint Virginia business plan.

Mr. Duval then spoke on the Virginia Chamber of Commerce's (the Chamber) "Blueprint Virginia" business plan (Blueprint). Mr. Duval stated that the mission of the Chamber is to be a non-partisan, business advocacy organization that works in the legislative, regulatory, and political arenas to act as the catalyst for positive change in all areas of economic development and competitiveness for the Commonwealth of Virginia. The Blueprint is a comprehensive effort to provide business leadership, direction, and long-range economic development planning for Virginia. The three-fold approach taken by the Chamber to develop the Blueprint is to acknowledge and build on current regional plans and industry strategies, provide a tool for analyzing the state and regional economies, recognize regional economic goals, and identify overarching statewide themes.

Mr. Duval stated that the Blueprint was presented at the Chamber's 2013 annual Virginia Economic Summit. Industry councils were used to focus efforts on developing economic development policy in 10 areas:

- Workforce.
- Business climate and economic development.
- Health care.
- Energy.
- Environment.
- Education.
- Transportation.
- Technology, innovation, and start-ups.
- Manufacturing.
- Military and veterans affairs.

Mr. Duval detailed policy recommendations within each of the 10 areas. The chair asked if it was possible for the Chamber to provide more specific recommendations that could be more easily formulated into legislative initiatives. Mr. Duval responded that the Chamber will work to pull together more specific recommendations in time for the 2014 legislative session.

House Bill 2198 Work Group Report

Owen Van Syckle, Chair

Mr. Van Syckle provided the Commission with the final report of the work. The

Commission established the work group, which consists of Mr. Van Syckle and Mr. Robert Marcus, to (i) review the implications of the bill, (ii) determine if any consensus among the interested parties could be reached, and (iii) report back with any recommendations deemed appropriate. The first meeting of the work group was held on August 29, 2013. After the meeting, the work group recommended to the Commission at its meeting held on September 9, 2013, that a version of the bill be adopted that was modeled as closely as possible on an existing California statute to resolve the problems that have been raised. The Commission, however, did not take final action on the recommendation and directed the work group to continue its review and report back.

Before moving forward with developing possible revisions to the legislation, the work group established a public comment period to provide all parties the opportunity for input. Written comment has been received from the following entities and individuals: Delegate Michael Watson, National Association of Credit Management, Consumer Data Industry Association (CDIA), Titan America (Titan Virginia Ready-Mix LLC), and Dun & Bradstreet. A document summarizing the comments has been developed. Proponents of the legislation consistently asserted that it is only fair to allow businesses to correct inaccurate entries included in a commercial credit report. This would necessarily require providing the business with enough information on the source to adequately research the validity of the entry. Delegate Watson offered to scale back some of the provisions of his bill as a compromise. First, to mitigate the issue raised regarding proprietary information, he suggested that the language of the bill could be revised to require information to be available for online viewing at no cost to the subject business in the identical format as provided to third parties, with the exception of the credit score itself. The credit score would be available for a nominal fee. Second, he proposed that if the subject business provided proof to challenge an erroneous entry but the source of the data refuses to be identified, then the entry should be marked with language indicating that it had been disputed by the subject business and therefore not factored in the payment score calculation.

Opponents of the legislation maintain that the legislation is not needed and will ultimately make it more difficult for small businesses to get credit in the state. Other concerns with the legislation that are cited in the comments

provided include (i) the legislation will adversely affect the availability of commercial credit, (ii) the legislation would make it harder for commercial credit managers to make credit decisions, and (iii) attempting to regulate the industry at the state level rather than the federal level will put Virginia businesses at a disadvantage.

From the information that has been developed over the course of the 2013 interim, including the testimony provided at previous work group and Commission meetings and the public comment that has been received, it is apparent that the parties remain substantially apart regarding the basic premise of the legislation. Mr. Van Syckle stated that despite the efforts of the work group, the legislation was being returned to the Commission by the work group without a recommendation.

The Commission then heard from Delegate Michael Watson, the patron of the bill. He reiterated that the two compromise provisions that he offered were sufficient to alleviate the major concerns of the commercial credit reporting industry and urged the Commission to support an amended version of the bill.

After some discussion among the Commission members, the review of the legislation concluded with no action being taken.

HB 1935 and HB 1936

The Commission then completed its review of two bills, patroned by Delegate Lopez, that had been referred for study: HB 1935, which sought to establish a Self-Employment Assistance Program (Program) in the state, and HB 1936, which would change the state's definition of "small business" to mirror the definition used by the federal government. Delegate Lopez presented revisions to each bill designed to address some of the concerns raised by Commission members.

Regarding HB 1935, Delegate Lopez presented a version of the bill that would change the measure to a pilot program limited to 100 qualified participants. Under the program, up to 100 unemployed individuals would be able to receive unemployment compensation while they are establishing their own businesses and becoming self-employed. The revised version of the bill also provides for the Virginia Employment Commission to report annually to the Governor and the General Assembly on (i) the total number of

participants, (ii) the fiscal status of the Program, and (iii) any other information that will assist in determining the viability of the Program. After some discussion, no action was taken by the Commission.

Delegate Lopez then presented HB 1936. He offered a version of the bill that would change the definition of small business to require the business to have 250 or fewer employees and average annual gross receipts of \$10 million or less averaged over the previous three years. Currently, a small business is required to meet one or the other of these conditions. Delegate Lopez stated that this change would not affect most current small businesses and would prevent abuses. A member asked if the proposal had been presented to the business community. Delegate Lopez responded that it had not. Some members of the Commission expressed concern that more information was needed regarding the effect of the legislation on the small business community. The Commission concluded its discussion without taking any action on the bill.

Staff provided an overview of the status of the Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act.

The Small Business Commission heard information on the study of HBs 1935, 1936, and 2198.

SMALL BUSINESS COMMISSION

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Joint Subcommittee to Evaluate Tax Preferences

December 3, 2013

The Joint Subcommittee to Evaluate Tax Preferences received updates about the development of a methodology and plan to evaluate tax preferences.

The Joint Subcommittee to Evaluate Tax Preferences (Joint Subcommittee) held its final meeting of the 2013 interim on December 3, 2013, in Richmond. The agenda for the meeting centered around staff updates regarding the development of a methodology and plan to evaluate tax preferences.

Staff first reported that they had reached out to 15 economic and tax experts to seek feedback and guidance on evaluating tax preferences. Eight experts responded, and provided feedback to staff. The experts included representatives from the Money Committee staffs, the Department of Taxation, academics, economists, accountants, and asset management experts. The feedback received touched on every area of potential review, including general methodologies, the pros and cons of using static versus dynamic analysis (i.e., modeling), establishing purpose, establishing impact, and what an ideal deliverable should look like. A more detailed summary of the advice received is available on the Joint Subcommittee's website.

Based on this feedback, staff proposed a standard format and process for reviewing each preference. The staff proposal would include a short synopsis or cover page for each analysis that would briefly describe the preference and the results of the analysis. A more detailed report would include a detailed summary of the preference, which would include any discernable purpose for the preference, relevant legislative and legal history, the identification of current issues related to the preference, and an overview of similar preferences in other states. The next section would review the breadth and depth of usage of the preference, including the number of beneficiaries, the average dollar amount claimed or used by each beneficiary, and the populations or sectors that primarily use the preference. An analysis section would follow that would present not only the results of the analysis, but also details as to how the analysis was conducted. It is anticipated that the analysis methodology might vary preference to preference, depending on the amount of data available, the sectors affected by the preference, the purpose, etc. Finally, closing sections would set forth other preferences that seek to achieve similar goals or that might seek counter purpose.

The Joint Subcommittee next turned its attention to setting a schedule for the review of preferences. Staff from the Division of Legislative Services and the Department of Taxation indicated that the Joint Subcommittee might anticipate reviewing, on average, 10 preferences per year. This number might vary depending on the complexity of the preferences on the schedule for a given year. To facilitate the conversation, staff provided a spreadsheet to the members listing the preferences found in Title 58.1 of the Code of Virginia.

The committee spoke generally as to whether or not to pursue dynamic modeling software in order to conduct dynamic analysis. A budget amendment would be necessary to purchase and maintain the necessary software at the Department of Taxation. The committee did not make any formal decision on the matter, but several members said they would continue to consider it during the upcoming session. Members also asked the Department of Taxation to provide them with more specific information regarding available software and the associated costs.

In response to suggestions from the members at the previous meeting, staff prepared a proposed schedule that included those preferences with the highest revenue impact. There was some concern that some of the preferences on that list might be too large to be ideal preferences for initial review—such as the Commonwealth's tiered tax rate structure, or the standard or personal exemption. The Joint Subcommittee discussed a few other approaches that might be used, such as starting with the preferences with the lowest fiscal impact in order to begin the analysis with very focused preferences, or by grouping preferences together by subject matter. No final decision was made regarding this issue, and the chair suggested that the members continue to discuss the issue one-on-one during the upcoming session and potentially schedule a short meeting during the session to vote on the matter.

JOINT SUBCOMMITTEE TO EVALUATE TAX PREFERENCES

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Dr. Martin Luther King, Jr. Memorial Commission

The Dr. Martin Luther King, Jr. Memorial Commission (Commission) and its subcommittees met in Richmond on March 13, May 22, June 4 and 25, July 25, and October 22, 2013, to plan the Commission's signature events for the 150th anniversary of the Emancipation Proclamation, which included a concert with the Richmond Symphony on April 13 at CenterStage in Richmond; a statewide student artwork contest; the exhibition "Revolutions: Songs of Social Change, 1865 to 1965" with the Virginia Historical Society; research for and development of the African American Legislators' Database and their descendants; the Unveiling of the Commemorative Plaques Honoring African American Members of the 1867-1868 Virginia Constitutional Convention and the Virginia House of Delegates and Senate of Virginia from 1869 to 1890; the establishment of the state Emancipation Proclamation and Freedom Monument; collaboration with the Library of Virginia on the exhibit, "Remaking Virginia: Transformation through Emancipation"; and preliminary planning for the Reconstruction Amendments Teachers Institute and Symposium. The Commission also continued its work pertaining to Massive Resistance Oral Histories and Public School Closings in Virginia; collaborated with the King Center in Atlanta and Living the Dream, Inc. of Richmond; and began a preliminary work plan for the 2014 interim.

Emancipation Proclamation Concert: A Musical Tribute

Senator Henry Marsh, chair, appointed a work group composed of Commission members, state and local leaders, and representatives of business and the fine arts, chaired by vice chair Jennifer L. McClellan, to plan the Commission's first signature event, a concert with the Richmond Symphony, to commemorate the 150th anniversary of the Emancipation Proclamation. Led by the Richmond Symphony's Music Director, Steven Smith, with Erin R. Freeman, Associate Conductor and James Erb Choral Chair, the choral and orchestral production told the story of Emancipation in historical context. Featuring national and state luminaries and music written during and after the Civil War period by nationally acclaimed Virginia composers and artists, which reflected a turbulent time during the nation's history, the concert illuminated the

perseverance of the human spirit and celebrated freedom and liberation. Highlighting the performance was a 200-strong mass choir assembled especially for the occasion from among college and university choral groups across the Commonwealth, together with members of Richmond's One Voice Chorus and the Richmond Symphony Chorus. Participating choral groups included: Bridgewater College, College of William & Mary, George Mason University, Hampden-Sydney College, Hampton University, Hollins University, James Madison University, Longwood University, Mary Baldwin College, Norfolk State University, Old Dominion University, Randolph-Macon College, Regent University, Shenandoah University, Sweet Briar College, Union Presbyterian Seminary, University of Mary Washington, University of Richmond, University of Virginia, Virginia Commonwealth University, Virginia State University, and Virginia Union University. The event also featured accomplished sopranos Dr. Lisa Edwards-Burrs and Charmaine Sims McGilvary as soloists, performers from Richmond's Elegba Folklore Society, and Moses Braxton, Jr., a renowned baritone of national and international fame, who narrated Aaron Copland's Lincoln Portrait and the Emancipation Overture composed by Richmond composer Dr. Willis L. Barnett, which was performed for the first time at the concert. Visual and language arts contributions by Virginia's schoolchildren were exhibited and the concert was recorded for re-broadcast by WCVE television and radio. The concert was free to the public and underwriting for the event was generously provided through private donations.

"Revolutions: Songs of Social Change, 1865 to 1965" Exhibition

On September 2, 2013, the exhibit, "Revolutions: Songs of Social Change, 1865 to 1965," opened at the Virginia Historical Society. The exhibition is one of the Commission's several signature events to commemorate the 150th anniversary of the Emancipation Proclamation and is a collaboration between the Commission and the Society and is open to the public without charge. Included in the exhibition are more than 30 objects from the American Civil War and Civil Rights eras, patriotic, sentimental, spirituals, freedom, dixie, and ballad music, an array of Civil War sheet music from the Society's "extensive 4,629 piece Virginia-themed sheet music collection," the original copy of the "Battle Hymn of the Republic" by Julia Ward Howe, a handwritten version of "Dixie's Land" (known

The Dr. Martin Luther King, Jr. Memorial Commission had several signature events for the 150th anniversary of the Emancipation Proclamation.

The Dr. Martin Luther King, Jr. Memorial Commission appointed a work group to study construction of a permanent monument celebrating the emancipation of slaves.

today as “Dixie”) by composer Daniel Decatur Emmett, a 160-year-old banjo, and interactive units for visitors. Dr. Laurant Lee, a member of the Commission’s Lincoln Subcommittee and Virginia Historical Society curator of African American History, commented that “although separated by one hundred years, music defined both the American Civil War and the Civil Rights eras, it continues to shape our own memory of those dramatic periods, and every song has a history.”

Commemorative Plaques Unveiling

One of the many results of the Commission’s statewide recognition of the 50th anniversary of *Brown v. Board of Education* was the creation of the African American Legislators’ Database Project, an ambitious undertaking to identify, research, and publish the biographies of all persons of African descent who have served in the Virginia General Assembly from its founding to the present. To commemorate the 150th anniversary of the Emancipation Proclamation, the Commission introduced legislation in 2011 to recognize African American members of the 1867-1868 Virginia Constitutional Convention and the Virginia House of Delegates and Senate of Virginia from 1869 to 1890. Commemorative plaques honoring these members were unveiled at a reception for descendants on September 17, 2013, and have been hung in the visitors’ area on the first floor of the State Capitol. The biographies of all of these legislators have been posted on the Commission’s website, and with the assistance of the Library of Virginia, extended biographies are available on the website for some of them. To ensure that the database is completed and remains current, the Commission’s staff has resumed research on African American members who have served in the General Assembly during the 20th and 21st centuries. This information will be added to the database.

Emancipation Proclamation and Freedom Monument

In commemoration of the 150th anniversary of the signing of the Emancipation Proclamation on January 1, 1863, the General Assembly, in C-1.30 of the 2012-2014 Appropriation Act, directed the Dr. Martin Luther King, Jr. Memorial Commission, in cooperation with the Department of General Services, to plan and conduct a feasibility study and fundraising for

the construction of a permanent monument celebrating the emancipation of slaves and freedom. Funds have been appropriated for this purpose. To commence the project, the Commission Chairman appointed a work group composed of Commission members, former state legislators, historians, nonlegislative citizens, and representatives of business, education, higher education, and the legal profession. Representatives of the Senate Finance Committee staff, the City of Richmond, Venture Richmond, and the Department of General Services serve as advisors and provide technical assistance to the work group and the Commission on the project. Since December 10, 2012, the Emancipation Proclamation and Freedom Monument Work Group has met regularly to fulfill requirements of the appropriation act, including the filing of three quarterly reports on the progress made on site selection, project design, projected costs, fund raising, and project finances.

With the assistance and collaboration of City of Richmond officials, Venture Richmond, and the Virginia Department of General Services, the work group identified potential site locations and toured, among other historical locations, the Burial Ground for Negroes, Jackson Ward, the Lumpkins Jail Site, Monument Avenue, Tredegar and its vicinity, and Brown’s Island to determine an appropriate site for the monument. The work group agreed upon two sites on Brown’s Island, which has great significance in African American history and is near the old Tredegar Iron Works and the American Civil War Center at Historic Tredegar. Two landscape artists were retained to advise the work group regarding the advantages and disadvantages of the selected sites on the Island. The work group presented its findings and recommendations to the Commission, Venture Richmond, and City of Richmond officials and began negotiations with Richmond and the process for the request for proposal. A joint press release concerning the establishment of the monument was agreed to by Mayor Dwight Jones and the Commission. The request for proposal was released on November 6, 2013, with the assistance of the Office of the Secretary of Administration, the Department of General Services, the Senate Clerk’s Office, and the Division of Legislative Services. The deadline for the submission of proposals is December 12, 2013, and the work group will present its recommendation on a sculptor/artist to the Commission on December 18, 2013. In addition, work has begun on the creation of a 501 (c)(3) organization composed of members of the work group to begin the fundraising campaign for the monument.

Reconstruction Amendments Teachers Institute and Symposium

The Dr. Martin Luther King, Jr. Memorial Commission will sponsor a Teachers Institute in the summer of 2015 followed by a symposium in fall 2015 that examines the historical, political, social, and legal context of the 13th, 14th, and 15th Amendments to the United States Constitution, and the significance of these Amendments to the rule of law and the legacy of the Emancipation Proclamation in contemporary times. The purpose of the Teachers Institute is to expose and prepare K-12 educators to the historical context of the Amendments in order that they may better instruct students concerning this era in American history. The Amendments, often referred to as the Civil War or Reconstruction Amendments, were enacted after the American Civil War to protect the new rights of formerly enslaved African Americans. The Amendments abolished slavery, conveyed the right of citizenship to persons born in America and equal protection under the law, and prohibited discrimination against the right to vote on the basis on race or previous condition of servitude. Notable legal scholars, historians, educators, and other experts will be impaneled to explore, analyze, and discuss the historical, cultural, social, and political setting of the genesis of the Amendments, the effect of the Amendments on the rule of law and public policy, the relevancy of the Amendments to the quality of life for Virginians and the nation today, whether each Amendment has effectively achieved its purpose, and the necessity for the Amendments in the future. The Reconstruction Amendments Symposium is an Emancipation Proclamation signature event; therefore, the Commission is planning to collaborate with public and private schools, educational and historical associations, the Department of Education, the Library of Virginia, the Virginia Historical Society, the Black History and Cultural Museum of Virginia, institutions of higher education, Historically Black Colleges and Universities, law schools, the faith community, and relevant nonprofit and community organizations. The Teachers Institute and the Symposium will be open to the public.

“Remaking Virginia: Transformation Through Emancipation” Exhibition

The Library of Virginia (Library) is partnering with the Commission for an exhibition on

Emancipation in Virginia in 2015. The exhibition, tentatively entitled “Remaking Virginia: Transformation Through Emancipation,” will include a variety of programs and digital projects. Some of the programs are “Family Reunion: Descendants of 19th Century African American Legislators of the Virginia General Assembly”; the scanning of historical documents across the state related to 19th-century African American legislators; a companion exhibit on Emancipation at the State Capitol; and the online exhibition of “Remaking Virginia: Transformation Through Emancipation,” which will be sponsored by the Commission in partnership with the library and the University of Virginia’s Institute for Public History. The scheduled opening of the online exhibition is July 6, 2015. In addition, a part of the library’s Virginia Memory website will consist of images, documents, didactic texts, transcriptions, and audio and video elements pertaining to Emancipation, and the information will be linked to the Commission’s website. Working together with the library’s staff, the exhibition project director, the social media coordinator, graphic designers, education department, and editorial staff of the *Dictionary of Virginia Biography*, and other members of the project team, a graduate intern of the University of Virginia’s Institute for Public History will be retained to build the online exhibition website and present a preview of the exhibition to the Anne and Ryland Brown Teacher Institute at the Library of Virginia.

Upcoming Signature Events

Other Commission signature events commemorating the historic signing of the Emancipation Proclamation in the planning stage include: (i) ceremony at the Emancipation Oak Tree at Hampton University in April 2014; (ii) viewing of the film *Lincoln* and panel discussion by eminent historians and scholars in April 2015; (iii) Public Forum: Contemporary Relevance of Emancipation Proclamation at Fort Monroe in May 2015; (iv) “Remaking Virginia: Transformation Through Emancipation,” exhibition with the Library of Virginia, from July 6, 2015, through March 2016; (v) Teacher Institutes on the Reconstruction Amendments in Summer 2015; (vi) Reconstruction Amendments Symposium in fall 2015; (vii) dedication and unveiling of Emancipation Proclamation and Freedom Monument in 2015; and (viii) a period ball in fall/winter 2015, which will conclude the commemoration of the 150th anniversary of the Emancipation Proclamation.

*The Dr. Martin
Luther King, Jr.
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Commission will
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13th, 14th, and 15th
Amendments to the
Constitution.*

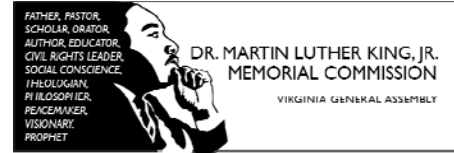
2014 Interim Preliminary Work Plan

The Commission's next meeting on December 18, 2013, will include a review and selection of the sculptor/artist for the Emancipation Proclamation and Freedom Monument, reports from its subcommittees, and a review of the preliminary 2014 work plan that will outline the procedures and process that requires the Commission to, among other things, (i) monitor educational goals, programs, and objectives to encourage the recognition and inclusion of the achievements and contributions of ethnic and minority groups; (ii) conduct the biennial inventory and review of activities and events, sponsored by localities and public and private schools and institutions of higher education, that are designed to honor Dr. King's memory; (iii) facilitate the analysis of and public discourse on contemporary public policies relative to Dr. King's principles and philosophy, including his work pertaining to social and economic justice, ethics, racial equality, and appreciation of diverse cultures among the citizenry; (iv) collaborate with The King Center in Atlanta and Living the Dream, Inc. for the non-commercialized celebration and promotion of public service opportunities for the 2014 National King Holiday in Virginia; and (v) develop strategies for enhanced visibility and private fundraising to enable and assist the Commission in carrying out its statutory mandates and goals.

Next Meeting

The Emancipation Proclamation and Freedom Work Group will meet on December 18, 2013, at 10:00 a.m. and the full Commission and all subcommittees will meet on the same day at 2:00 p.m. The location will be announced by the Senate Clerk's Office.

The Dr. Martin Luther King, Jr. Memorial Commission is working on developing a preliminary work plan for the 2014 interim.



DR. MARTIN LUTHER KING, JR. COMMISSION

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The Virginia Bicentennial of the American War of 1812 Commission

The Virginia Bicentennial of the American War of 1812 Commission (Commission) and its Citizens Advisory Council work groups met in Richmond on August 21, September 11, and October 23, 2013, to begin planning for the Commission's 2014 Signature Events: the commemorations of the British Surrender of Alexandria and the Burning of Washington and the Legacy Symposium. The chair, Delegate Kirk Cox, appointed the following work groups: Program and Education; Heritage Groups, Museums, and Publicity; the Military; Logistics and Transportation; and Fundraising and charged each work group with specific duties.

2014 Signature Events

The Commission agreed to partner with Gadsby's Tavern Museum and Northern Virginia localities to commemorate the British Surrender of Alexandria and the Burning of Washington, D.C., and to hold the Legacy Symposium on June 19-21, 2014, using Fort Monroe and Hampton University, as appropriate, for activities and events. Efforts to commemorate the bicentennial events in Northern Virginia are being coordinated through Gadsby's Tavern Museum. The symposium has as its purposes (i) the promotion of and interdisciplinary curriculum and content delivery to K-12 audiences; (ii) the utilization of local resources to enhance tourism and economic development; and (iii) the engagement of multiple audiences and the presentation of various strategies to enhance community understanding of the legacy of the War of 1812.

The symposium will convene on June 19, 2014, at Fort Monroe with a military band concert, a welcome by Presidents James Monroe and James Madison reenactors, and other festivities. The symposium opening will be followed on June 20, 2014, by a workshop for Virginia teachers and museum educators concerning the War of 1812 and its legacy and a guided tour of the Fort Monroe National Historic Monument and Casement Museum. Each session of the symposium will be led by eminent historians and scholars on the War of 1812. The Commission has partnered with the Virginia Department of Education; the National Park Service; Hampton University, which will assist with housing, catering, and classroom space for the scholars' sessions; Fort Monroe,

which will house the educators' workshop and opening events; the United States Armed Forces; the Richmond Symphony and the Hampton Roads youth orchestra; museums; historical societies and legacy groups; institutions of higher education; benefactors; and other entities to deliver the symposium. An event planner will be secured to coordinate the symposium.

In addition, plans were discussed to involve school divisions in the development of a quilt that would be representative of the contributions of all areas of the state during the years leading up to the war. Historical sites and heritage groups will be requested to market the symposium and permission will be sought to use the logos of historic sites related to the War of 1812 and to provide a link to the Commission's website. The Commission agreed to mail a save-the-date notice to all stakeholders at the end of October 2013, including the distribution of a flyer to the annual Virginia Social Studies Conference and potential conference exhibitors.

To heighten the visibility of the symposium, the Commission agreed to distribute short op-eds on the war and its legacy to the media, develop a press package, and prepare a one-page letter that legislative members may use with colleagues and constituents concerning the relevance of the War of 1812 and the symposium. The op-eds would be designed to educate the public concerning the war, its significance in American and military history, and its legacy, including homeland security, little known facts about the war, the role of Native Americans and African American enslaved persons, and the social and economic impact of the freeing of slaves. Fundraising, pre-registration, and registration decisions were considered at the Commission's November 26, 2013, meeting.

The Virginia Bicentennial of the American War of 1812 Commission met to develop its 2014 Signature Events.



VIRGINIA BICENTENNIAL OF THE AMERICAN WAR OF 1812 COMMISSION

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Did You Know?

"Did You Know?" appears in each issue of the *Virginia Legislative Record*. The article features important topics or interesting facts relevant to the Virginia legislature. For general questions or issue suggestions, please contact the Division at (804) 786-3591 or email mtanner@dls.virginia.gov.

2014 Session Prefiling Calendar

- Joint subcommittees on studies should submit an executive summary including findings and recommendations to DLAS by the first day of the General Assembly's Regular Session.
- All drafts of legislation to be prefiled returned by DLS for requester's review by midnight December 27, 2013.
- All requests for drafts, redrafts, and corrections of legislation creating or continuing a study to DLS by 5:00 p.m. on January 3, 2014.
- All requests for redrafts and corrections for legislation to be prefiled to DLS by 5:00 p.m. on January 3, 2014.
- Legislation to be prefiled available by noon on January 7, 2014.
- Prefiling for the 2014 Session ends at 10:00 a.m. on January 8, 2014.
- The 2014 General Assembly convenes on January 8, 2014, at noon.

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/>

Medicaid Innovation and Reform Commission

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

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 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

9VAC5-130. Regulation for Open Burning (Rev. E12) (amending 9VAC5-130-10 through 9VAC5-130-50, 9VAC5-130-100; repealing 9VAC5-130-60).

Written public comment may be submitted until January 21, 2014.

Summary:

The proposed amendments (i) specify that open burning prohibitions and restrictions and permissible open burning provisions apply only in volatile organic compound (VOC) emissions control areas; (ii) delete the reference to “urban areas” from the permissible burning provisions for VOC emissions control areas; (iii) add special provisions to address the specific burning needs of the Virginia Department of Transportation; and (iv) add clarifying language and eliminate obsolete language.

For more information, please contact Mary E. Major, Department of Environmental Quality, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, TTY (804) 698-4021, or email mary.major@deq.virginia.gov.

STATE WATER CONTROL BOARD

REGISTRAR’S NOTICE: The State Water Control Board is claiming an exemption from Article 2 of 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 of the Code of

Virginia 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.

9VAC25-192. Virginia Pollution Abatement (VPA) General Permit Regulation for Animal Feeding Operations (amending 9VAC25-192-10, 9VAC25-192-20, 9VAC25-192-50, 9VAC25-192-60, 9VAC25-192-70; adding 9VAC25-192-25, 9VAC25-192-80, 9VAC25-192-90).

Written public comments may be submitted until January 21, 2014.

Summary:

The State Water Control Board is reissuing the general permit regulation for animal feeding operations with a 10-year permit term that expires on November 15, 2024. The regulation governs the pollutant management activities of animal wastes at animal feeding operations not covered by a Virginia Pollutant Discharge Elimination System permit and having 300 or more animal units utilizing a liquid manure collection and storage system. These animal feeding operations may operate and maintain treatment works for waste storage, treatment, or recycling and may perform land application of manure, wastewater, compost, or sludges.

The proposed amendments include options to (i) transfer animal waste off the farm as long as specific requirements are followed by the permittee and the end-users of the animal waste and (ii) manage imported waste materials as long as specific requirements are followed by the permittee.

For more information, please contact Betsy Bowles, Department of Environmental Quality, Richmond, VA 23218, telephone (804) 698-4059, FAX (804) 698-4116, or email betsy.bowles@deq.virginia.gov.

TITLE 12. HEALTH STATE BOARD OF HEALTH

12VAC5-105. Rabies Regulations (adding 12VAC5-105-10 through 12VAC5-105-40).

Written public comments may be submitted until January 31, 2014.

Summary:

The proposed regulations (i) establish a procedure for issuing exemptions for rabies vaccination, (ii) require localities to have a response plan to rabies exposure, and (iii) establish requirements for recordkeeping associated with rabies clinics.

For more information, please contact Julia Murphy, DVM, State Epidemiological Veterinarian, Department of Health, Richmond, VA 23219, telephone (804) 864-8113, FAX (804) 864-8131, or email julia.murphy@vdh.virginia.gov.

12VAC5-481. Virginia Radiation Protection Regulations (amending 12VAC5-481-10, 12VAC5-481-290, 12VAC5-481-340, 12VAC5-481-350, 12VAC5-481-2110, 12VAC5-481-3410; adding 12VAC5-481-1581, 12VAC5-481-1591, 12VAC5-481-1601, 12VAC5-481-1611, 12VAC5-481-1621, 12VAC5-481-1631, 12VAC5-481-1641, 12VAC5-481-1651, 12VAC5-481-1653, 12VAC5-481-1655, 12VAC5-481-1657; repealing 12VAC5-481-1580, 12VAC5-481-1590, 12VAC5-481-1600, 12VAC5-481-1610, 12VAC5-481-1620, 12VAC5-481-1630, 12VAC5-481-1640, 12VAC5-481-1650).

Written public comments may be submitted until January 31, 2014.

Summary:

The proposed amendments (i) reflect changes to federal regulations, (ii) reflect new x-ray modalities in the medical field, (iii) reduce the frequency of required inspections for lower-risk equipment, (iv) update definitions, and (v) make minor grammatical and clarifying changes.

For more information, please contact Steve Harrison, Acting Director, Division of Radiological Health, Department of Health, Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022, or email steve.harrison@vdh.virginia.gov.

12VAC5-570. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings (amending 12VAC5-570-10, 12VAC5-570-30 through 12VAC5-570-190; adding 12VAC5-570-200; repealing 12VAC5-570-20).

Written public comments may be submitted until January 31, 2014.

Summary:

The Sanitary Regulations for Marinas and Boat Moorings establish minimum standards for sewage handling and disposal at regulated facilities to ensure that sewage generated from boats and onshore boating facilities is treated and disposed of properly. The proposed amendments (i) provide an allowance for smaller boating facilities to construct unisex bathrooms, (ii) eliminate the distinction between transient and seasonal slips as the basis for determining sewerage fixture needs, (iii) establish a new live-aboard slip category with a higher wastewater flow number, (iv) provide an alternative to installing a sanitary waste dump station for owners with facilities that have proper sanitary waste pump-out services, and (v) allow the use of manually operated pumps at marinas and other places where boats are moored that offer fewer than 26 slips.

For more information, please contact Preston Smith, Manager, Marina Programs, Department of Health, Richmond, VA 23219, telephone (804) 864-7468, FAX (804) 864-7475, or email preston.smith@vdh.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

12VAC30-20. Administration of Medical Assistance Services (amending 12VAC30-20-180).

Written public comments may be submitted until January 6, 2014.

Summary:

Pursuant to Item 300 H of Chapter 890 of the 2011 Acts of Assembly, the proposed amendments require (i) the 46,957 fee-for-service Medicaid providers to electronically submit their claims for services rendered to Medicaid and FAMIS individuals and (ii) providers' payments to be provided by electronic funds transfers. Proposed amendments allow for exceptions to these electronic filing/payment requirements when certain specified standards are met and do not affect the eight

Medicaid managed care organizations because they do not file individual claims for services but already file electronic encounter data.

For more information, please contact Tom Edicola, Director, Program Operations Division, Department of Medical Assistance Services, Richmond, VA 23219, telephone (804) 786-8098, FAX (804) 786-1680, or email tom.edicola@dmas.virginia.gov.

TITLE 16. LABOR AND EMPLOYMENT SAFETY AND HEALTH CODES BOARD

16VAC25-35. Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees (amending 16VAC25-35-30).

Written public comments may be submitted until January 17, 2014.

Summary:

The proposed amendment requires a lead contractor to file a written lead project notification with the Department of Labor and Industry for all lead projects, rather than only projects where the contract price is \$2,000 or more.

For more information, please contact John J. Crisanti, Planning and Evaluation Manager, Department of Labor and Industry, Main Street Centre, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, TTY (804) 786-2376, or email john.crisanti@doli.virginia.gov.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

18VAC15-20. Virginia Asbestos Licensing Regulations (amending 18VAC15-20-52, 18VAC15-20-53).

Written public comments may be submitted until January 31, 2014.

Summary:

The proposed amendments increase fees of the Board for Asbestos, Lead, and Home Inspectors to ensure that revenues are sufficient, but not excessive, to cover its ongoing operating expenses. Without the proposed fee increases, the board will incur a deficit by the end of the 2012-2014 biennium.

For more information, please contact Trisha Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

18VAC15-40. Virginia Certified Home Inspectors Regulations (amending 18VAC15-40-50, 18VAC15-40-52).

Written public comments may be submitted until January 17, 2014.

Summary:

The proposed amendments increase fees for obtaining and maintaining certification as a home inspector.

For more information, please contact Trisha Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

AUCTIONEERS BOARD

18VAC25-21. Regulations of the Virginia Auctioneers Board (amending 18VAC25-21-10, 18VAC25-21-50, 18VAC25-21-70, 18VAC25-21-80, 18VAC25-21-90, 18VAC25-21-110, 18VAC25-21-120, 18VAC25-21-140 through 18VAC25-21-185, 18VAC25-21-220, 18VAC25-21-250, 18VAC25-21-280; adding 18VAC25-21-95).

Written public comments may be submitted until January 31, 2014.

Summary:

The proposed amendments (i) replace the \$40 examination and reexamination fees with language making such fees subject to competitively negotiated contracts, (ii) allow licensees to use continuing education hours gained in reciprocating states to meet continuing education requirements in Virginia, and (iii) clarify existing regulatory language.

For more information, please contact Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, Richmond, VA 23233, telephone (804) 367-8514, FAX (866) 465-6206, or email auctioneers@dpor.virginia.gov.

18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-260).

Written public comments may be submitted until January 3, 2014.

Summary:

The proposed amendment requires language to be added to all written contracts for residential contracting services that (i) notifies consumers of the existence of the Virginia Contractor Transaction Recovery Fund and (ii) includes information on how to contact the Board for Contractors for claim information.

For more information, please contact Eric L. Olson, Executive Director, Board for Contractors, Richmond,

telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

BOARD OF LONG-TERM CARE ADMINISTRATORS

BOARD OF DENTISTRY

18VAC60-15. Regulations Governing the Disciplinary Process (adding 18VAC60-15-10, 18VAC60-15-20).

18VAC60-20. Regulations Governing Dental Practice (repealing 18VAC60-20-10 through 18VAC60-20-352).

18VAC60-21. Regulations Governing the Practice of Dentistry (adding 18VAC60-21-10 through 18VAC60-21-430).

18VAC60-25. Regulations Governing the Practice of Dental Hygiene (adding 18VAC60-25-10 through 18VAC60-25-210).

18VAC60-30. Regulations Governing the Practice of Dental Assistants II (adding 18VAC60-30-10 through 18VAC60-30-170).

A public hearing will be held on January 10, 2014, at 9 a.m. at the Department of Professional and Occupational Regulation, Perimeter Building, Richmond. Written public comments may be submitted until January 11, 2014.

Summary:

Pursuant to a periodic review, the Board of Dentistry proposes to repeal its regulatory chapter governing all dental practices (18VAC60-20) and replace it with four regulatory chapters: Regulations Governing the Disciplinary Process (18VAC60-15), Regulations Governing the Practice of Dentistry (18VAC60-21), Regulations Governing the Practice of Dental Hygiene (18VAC60-25), and Regulations Governing the Practice of Dental Assistants II (18VAC60-30). All changes in these replacement regulations are clarifying in nature except for the requirements for the administration of conscious/moderate sedation, deep sedation, and general anesthesia in dental practices and for the permitting of dentists who administer conscious/moderate sedation, deep sedation, and general anesthesia, which are currently effective as an emergency regulation.

For more information, please contact Sandra Reen, Executive Director, Board of Dentistry, Richmond, telephone (804) 367-4538, FAX (804) 527-4428, or email sandra.reen@dhp.virginia.gov.

18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-80).

18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators (amending 18VAC95-30-40).

Written public comments may be submitted until January 17, 2014.

Summary:

The proposed amendments (i) increase fees charged to nursing home administrators, assisted living administrators, preceptors, and administrator-in-training program applicants and (ii) establish a new fee of \$1,000 for reinstatement after disciplinary action.

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 lrc@dhp.virginia.gov.

BOARD OF PHARMACY

18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-10; adding 18VAC110-20-418).

Written public comments may be submitted until January 17, 2014.

Summary:

Chapter 124 of the 2011 Acts of Assembly mandates that the Board of Pharmacy promulgate regulations to specify the elements of a continuous quality improvement program that provides a systematic, ongoing process for analyzing dispensing errors and uses those findings to (i) formulate an appropriate response, (ii) develop or improve pharmacy systems and workflow processes, and (iii) prevent or reduce future errors.

The key provisions of the proposed regulations include (i) definitions for terms used in regulation, such as "actively reports," "analysis," and "dispensing error," (ii) provisions for pharmacies actively reporting to a patient safety organization; and (iii) provisions for a continuous quality improvement program in a pharmacy, to include notification responsibilities, documentation requirements, remediation of systems or procedures, and maintenance of a record of the analysis of the error.

For more information, please contact Caroline Juran, RPh, Executive Director, Board of Pharmacy, Richmond,

VA 23233-1463, telephone (804) 367-4416, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

REAL ESTATE APPRAISER BOARD

18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-90, 18VAC130-20-130, 18VAC130-20-240).

Written public comments may be submitted until January 17, 2014.

Summary:

The proposed amendments increase fees for (i) obtaining and maintaining licensure, registration, or certification as a real estate appraiser, appraiser trainee, appraisal business, and appraisal instructor and (ii) approval of a real estate appraisal course.

For more information, please contact Christine Martine, Executive Director, Real Estate Appraiser Board, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4298, or email reappraisers@dpor.virginia.gov.

TITLE 22. SOCIAL SERVICES STATE BOARD OF SOCIAL SERVICES

22VAC40-601. Supplemental Nutrition Assistance Program (adding 22VAC40-601-70).

Written public comments may be submitted until January 17, 2014.

Summary:

The proposed amendment requires that the income of persons who are ineligible for SNAP benefits because of their immigration status will be used in its entirety to determine the SNAP eligibility of the remaining eligible household members and alters current processes by using the full amount of an ineligible immigrant's income instead of a prorated amount of the income.

For more information, please contact Celestine Jackson, Program Consultant, Department of Social Services, Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7357, TTY (800) 828-1120, or email celestine.jackson@dss.virginia.gov.

22VAC40-661. Child Care Program (amending 22VAC40-661-10, 22VAC40-661-30, 22VAC40-661-40, 22VAC40-661-57, 22VAC40-661-60, 22VAC40-661-70, 22VAC40-661-80; adding 22VAC40-661-100).

Written public comments may be submitted until January 17, 2014.

Summary:

The proposed action modifies the current child care subsidy program to facilitate the development and implementation of a statewide child care automation system and to expedite the automation process by ensuring uniform statewide child care guidance.

Proposed changes include (i) new requirements for vendors; (ii) a limitation on fees and rates paid by the program; (iii) a requirement for applicants to be at least 18 years of age; (iv) a requirement for both applicants and recipients to cooperate with the Division of Child Support Enforcement as a condition of eligibility; (v) a requirement that appellants refund the cost of services paid during the appeals process when the local department's decision is upheld; (vi) a decrease in the time allowed for processing applications; (vii) the use of the administrative disqualification hearing process to hear certain cases of alleged recipient fraud; (viii) the establishment of a time limitation for receipt of benefits in the fee program; and (ix) a change to require that overpayments caused as a result of a local department error be repaid to the state Department of Social Services with local funds.

For more information, please contact Mary Ward, Subsidy Program Manager, Department of Social Services, Richmond, VA 23219, telephone (804) 726-7638, FAX (804) 726-7655, or email mary.ward@dss.virginia.gov.

Withdrawal of Proposed Regulation

22VAC40-740. Adult Protective Services (amending 22VAC40-740-10, 22VAC40-740-21, 22VAC40-740-31, 22VAC40-740-40, 22VAC40-740-50, 22VAC40-740-60, 22VAC40-740-70, 22VAC40-740-80; adding 22VAC40-740-45).

The State Board of Social Services has WITHDRAWN the proposed regulatory action for 22VAC40-740, Adult Protective Services, which was published in 29:2 VA.R. 312-322 September 24, 2012. Enactment 65 of Chapters 803 and 835 of the 2012 Acts of Assembly transferred powers related to the administration of auxiliary grants and the provision of adult services and adult protective services from the Department of Social Services to the Department for Aging and Rehabilitative Services effective July 1, 2013. Therefore, this action is being withdrawn because the board no longer has authority to complete this regulatory action.

For more information, please contact Karin Clark, Manager, Legislative and Regulatory Affairs, Office of Commissioner, Department of Social Services, Richmond, VA 23219, telephone (804) 726-7017, or email karin.clark@dss.virginia.gov.

Division of Legislative Services

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