

Virginia Legislative Record

VOLUME 18 ISSUE 6

NOV–DEC 2008

HJR 178/SJR 70: Joint Subcommittee Studying Development and Land Use Tools in Virginia's Localities

November 12, 2008

The joint subcommittee held its third meeting at the General Assembly Building in Richmond. Legislative members in attendance were Chairman Athey, Vice-Chairman Vogel, Delegates Oder and Miller and Senator Lucas. Members who serve ex officio in attendance were Pierce Homer, Secretary of Transportation, and Alex Daniel, Assistant Secretary of Commerce and Trade and designee for the Secretary of Commerce.

Presentations

William Lecos, Tysons Land Use Task Force

William Lecos delivered a presentation to the joint subcommittee entitled *Planning and Urban Design for Tysons Corner*. He began by stating that the Tysons Land Use Task Force's mission is to transform Tysons Corner from suburbia to a truly urban place that is built for people, not for cars. The goals of the task force are to make Tysons Corner a top downtown center, nationally known by its green stewardship, where people want to reside. To achieve that goal, Mr. Lecos testified that the task force focused growth on transit, on creating more jobs and increasing residents in Tysons Corner, and on making Tysons Corner more

environmentally friendly. Those factors driving the goals of the task force, according to Mr. Lecos, include:

- Creation of a people-focused urban setting so that residential development is encouraged in nearly all of Tysons Corner.
- Redesign of the transportation network so that modes of traveling (walking, biking, transit, cars) are balanced, 95% of development is within a short walk of transit, and urban streets exist within Tysons Corner.
- Strong emphasis on the environment so that streams are restored, parks meet urban park standards, and the architecture and buildings are environmentally friendly.
- New authority for implementation of the task force's work.

In summary, Mr. Lecos stated that the vision of the Tysons Land Use Task Force is that Tysons Corner is an environmentally sustainable—as measured by its parks, restored streams, and "green" buildings—urban center with 200,000 jobs and 70,000 residents that contains a variety of affordable and workforce housing choices, because twenty percent of the buildings contain residential units.

Inside this issue:

Interim Studies

Land Use Tools	1
Certain ABC Issues	4
Science, Math, & Technology Education	6
DLS Report on HB 1441	7
Did You Know?	8
Single Sales Factor	9
Substance Abuse Prevention	10
Biosciences & Biotechnology	12
Virginia's Seaports	14
At-Risk Children & Families	16
Rapid Transit Networks	18
Hampton Roads Transportation	20
Commissions and Councils	
Coal and Energy	21
Civil War Commission	23
Energy and Environment	25
Freedom of Information Advisory Council	28
Small Business Commission	30
Regulatory Alert	31

For more information, visit study websites.

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

Virginia Resources Authority's investments and financial support have made a difference in Virginia, funding more than 800 projects in localities across the state since the agency's inception.

Dr. Sheryl Bailey, Virginia Resources Authority

Dr. Bailey delivered a presentation to the joint subcommittee entitled *Innovative Financing to Build Virginia Communities*. After delivering an overview of the Virginia Resources Authority (VRA), Dr. Bailey discussed specifically how VRA's investments and financial support have made a difference in Virginia, such as funding more than 800 projects across the Commonwealth since the inception of VRA. She next detailed the financing options VRA is able to provide localities. Namely, Dr. Bailey stated that financing is available anytime and that localities can utilize revolving loan funds, participate in the Virginia Pooled Financing Program, or seek VRA equipment and term financing to undertake projects. Relating to urban development areas, Dr. Bailey stated that existing VRA tools can augment development by either establishing a VRA revolving loan fund for local infrastructure or combining initial capital investment with existing VRA Pooled Financing Program to maximize impact. However, the General Assembly must define loan eligibility criteria, but localities can capitalize on VRA's proven record of getting investment to communities quickly.

Nick Donohue, Assistant Secretary of Transportation

Nick Donohue delivered a presentation relating to new secondary street acceptance requirements. He stated that the requirements, which will supersede and replace existing subdivision street requirements, are a result of legislation introduced at the request of Governor Kaine and unanimously approved during the 2007 General Assembly Session. The intent of such requirements is to ensure streets accepted into the state system for perpetual public maintenance provide public benefit. Mr. Donohue highlighted the connectivity requirements contained within the secondary street acceptance requirements, but noted that connectivity is not always feasible and that exceptions for land use

incompatibility and automatic reductions for perimeter constraints (e.g., mountains, rivers) exist. He, however, noted the grandfathering provisions of the new secondary street acceptance requirements:

- Streets within a proffered plan of development, site plan/subdivision plat, preliminary subdivision plat or approved street construction plan may be accepted under former requirements.
- Proposals officially accepted for review by a local government may be accepted under the former requirements at the request of the locality.
- New requirements allow previous area type requirements to apply when area type is modified after approval of development proposal.

Also, Mr. Donohue noted that pedestrian accommodations required in the secondary street acceptance requirements are generally based on density and specifically state what types of accommodations, if any, are required depending on the lot size. With respect to stormwater runoff, Mr. Donohue remarked that the Virginia Department of Transportation has worked with the Department of Conservation and Recreation and the private sector to develop a list of innovative stormwater facilities that can be placed within Virginia Department of Transportation rights-of-way because such placement is not currently permitted.

Finally, Mr. Donohue stated that implementation of the new requirements includes the production by the Virginia Department of Transportation (VDOT) of a guidance document to accompany regulation to assist local staff and developers, as well as provision by VDOT of outreach and training similar to the outreach and training that was provided for the traffic impact analysis regulations.

Alan Pollock, Virginia Department of Environmental Quality

Alan Pollock delivered a presentation to the joint subcommittee entitled *Progress Report on Nutrient Trading in the Chesapeake Bay Watershed of Virginia*. After discussing the Chesapeake 2000 Agreement and tributary strategies,

Mr. Pollock discussed the nutrient credit exchange legislation that was adopted in 2005 that:

- Authorizes the Chesapeake Bay Watershed Nutrient Credit Exchange Program.
- Directs the Department of Environmental Quality to issue a watershed general permit for point source discharges of nutrients (nitrogen and phosphorus) to the Chesapeake Bay and its tributaries.
- Authorizes the creation of the nonprofit Virginia Nutrient Credit Exchange Association to assist the regulated community in complying with the watershed general permit.

The purpose of utilizing a watershed general permit and market-based point source nutrient credit trading program is to:

- Meet the nutrient cap load allocations cost effectively and as soon as possible in keeping with the 2010 timeline and objectives of the Chesapeake 2000 agreement.
- Accommodate continued growth and economic development in the Chesapeake Bay watershed.
- Provide a foundation for establishing market-based incentives to help achieve the Chesapeake Bay Program's nonpoint source reduction goals.

Mr. Pollock discussed highlights of the Chesapeake Bay Watershed Nutrient General Permit, which was effective January 1, 2007, covers 124 significant and 23 nonsignificant discharges, and has a compliance date of January 1, 2011. Furthermore, he stated that a wastewater treatment facility can grow under nutrient caps by a locality and acquire nonpoint source offsets, purchasing additional point source allocations from other plants and upgrading to more advanced treatment. Finally, in relating point source nutrient load caps to urban development areas, Mr. Pollock noted that nutrient loads discharged from treatment plants are capped but growth is not and lots of creative possibilities are provided through the Nutrient Credit Exchange Program.

Jack Frye, Virginia Department of Conservation and Recreation

Jack Frye began his presentation by discussing the statutory requirements for urban development areas and stormwater management. He shared with subcommittee members the timeline in which proposed stormwater management regulations become effective and also shared the changes reflected in the proposed regulations. Mr. Frye testified that the changes incorporate better site design and LID techniques into site design process and allow for regional approaches, pro-rata fees, exceptions, etc. Key areas of compatibility exist between the statutory requirements for urban development areas, such as satisfaction requirements for stormwater management and reduction of subdivision street widths, and the proposed stormwater management regulatory requirements, such as reduction of impervious cover as in narrower streets, which reduce best management practice requirements.

Mr. Frye discussed the impacts of proposed regulations on higher density development. He concluded that initial evidence from studies indicates that addressing stormwater requirements can be compatible with higher density development; and stormwater requirements will address all development of all densities and intensities to varying degrees, both within and outside of urban development areas.

Next Meeting

The next meeting of the joint subcommittee is scheduled for January 13, 2009.

HJR 178/SJR 70
*Joint Subcommittee Studying
 Development and Land Use Tools
 in Virginia's Localities*
 Delegate Clifford Athey, Chair

Kevin Stokes and Jeff Sharp, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/DLUT.htm>

A spokesman from DEQ discussed the Chesapeake Bay Watershed Nutrient General Permit, which was effective January 1, 2007, covers 124 significant and 23 nonsignificant discharges, and has a compliance date of January 1, 2011.

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

November 14, 2008

The committees eventually focused on the idea of moving to a volume based ratio calculation for mixed beverage restaurant licensees.

Delegate Albo called the meeting to order and provided a quick review of the three main study priorities of the 2008 Interim, which are characterizing the proliferation of new classes of retail licenses, determining the need for a bar vs. restaurant distinction for mixed beverage licensees, and studying certain issues associated with the food ratio for mixed beverage restaurant licensees.

Staff Review of Issues

Maria Everett reviewed the committees' discussion of the proliferation of non-restaurant retail licenses. Although the committee discussed the possibility of creating a "limited service" or "personal service" license with a new food sale requirement, the committee determined that the best approach was to limit the creation of any new classes of retail licenses. She also reviewed the committees' ongoing discussion on the potential for distinguishing between a bar and restaurant in the Code of Virginia. There was ultimately very little support for this concept.

Ms. Everett reviewed potential alternatives to the food/beverage ratio and discussed one option that would permit licensees to petition the ABC Board for leniency if the licensee has had difficulty meeting the food/beverage ratio due to increased purchases of high-end mixed beverages. This potential regulatory fix was ultimately rejected by the committees as well.

Ms. Everett also discussed the option of creating Class A, B, and C licenses that would allow greater flexibility in distinguishing between bars and restaurants. Delegate Albo noted that the restaurant industry opposed creating a bar license. There was discussion on some of the problems associated with limiting the Class C licenses, which would essentially be bar licenses, as

well as how the committee eventually began to focus on the idea of moving to a volume based ratio calculation for mixed beverage restaurant licensees.

Presentation

Curtis Coleburn, ABC Board

Curtis Coleburn discussed his study of licensees and potential problems meeting the food/beverage ratio requirements. Mr. Coleburn randomly sampled 4% of mixed beverage restaurant licensees. He revealed that the average ratio for each region was between 77% and 92%. Mr. Coleburn pointed out that many of the restaurants in the sample were family restaurants. He then looked at a region with a high concentration of entertainment-type establishments. Delegate Gear asked whether it was simple to separate entertainment-type establishments. Mr. Coleburn responded that the only way to do that would be to select establishments by recognizable names. He was able to identify the area of Shockoe Bottom, which had 32 licensees with an average ratio of 71.4 %; six reported a ratio below 50%; and one did not meet the ratio requirements. Delegate Dance asked if there was an outside review of this information. Mr. Coleburn stated that by law he is prohibited from sharing information related to the licensees outside of the Department. Delegate Dance stated that she had a problem using a 4% sample size and questioned whether the sample size was statistically significant.

Mr. Coleburn also spoke about potential trends in eating and drinking habits. He examined about half of the licensees in the sample, looked at the past five years of records, and for the Richmond region actually noticed a declining trend in mixed beverage sales. Mr. Coleburn also looked at specific licensees and noticed that where food sales have dropped, mixed beverage sales have not increased.

Public Comment

William Baldwin, the president of the Virginia Nightlife Association and a restaurant owner, stated that he has worked hard to make the food/sales ratio. The problem is that he has to open for lunch to meet the food requirement, because no one wants to eat dinner next to a dance floor. He says he is just breaking even on food sales and actually loses money when he takes into account the cost of keeping his establishment open for lunch.

Delegate Bulova asked if there was any benefit in going from a dollar ratio to a volume ratio. Mr. Baldwin responded that he supported any effort to reduce the burden on restaurant owners. Delegate Albo asked Mr. Baldwin if a business model existed to open a high-end whiskey bar. Mr. Baldwin responded that the food sales would have to be extremely high to support an establishment that wanted to serve very expensive mixed beverages. Delegate Albo stated that he would like to reserve the remainder of the meeting to discuss the feasibility of a change to a volume ratio. Peter Fulge, restaurant owner in Arlington, stated that a change to a volume-based ratio would help his business. Mr. Fulge said that although he makes some money on his food sales, the majority of his profits come from the sale of mixed beverages and alcohol. Tom Lisk, representing the Virginia Hospitality and Travel Association, voiced his concern of the accuracy of the reporting by licensees and any subsequent reliance on self-reported data. Mr. Lisk stated that the VHTA supports the committees' effort to examine the possibility of a volume-based ratio.

Review of Draft Legislation

The members reviewed draft legislation that would create a two-year pilot project for certain mixed beverage restaurant licensees of the Alcoholic Beverage Control Board to provide an alternative method for calculating the 45 percent food-to-beverage ratio based

on the volume of mixed beverages, expressed as food sales compared to proof gallon of spirits purchased from the Board or food sales as compared to dollar sales of mixed beverages. A complete draft of the legislation is available on the committees' website.

Final Recommendations

After a brief discussion, members of the committee discussed potential problems with voting on legislation that requires ABC to define major portions of the pilot project. Senator Miller asked if it would be better if potential volunteers were made aware of the details of the pilot project prior to volunteering. The committees voted to delay the deadline for volunteers until after the parameters of the pilot project were defined by ABC.

Delegate Albo requested ABC to calculate the dollar amount of a proof gallon and the dollar amount of food sales assigned to each proof gallon that shall be sold by each mixed beverage restaurant licensee participating in the project. The goal should be to maintain the 45 percent food-to-beverage ratio so that any currently compliant licensees would remain compliant under the new volume-based ratio.

Delegate Albo requested that ABC report back to the committees prior to the start of the 2009 General Assembly session so that the members could make a final vote on whether to approve and introduce the pilot project.

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

Senator Linda "Toddy" Puller, Chair

Delegate Terrie Suit, Chair

Maria Everett and Patrick Cushing, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/ABC.htm>

The Chairman requested that the ABC Board report back to the committees prior to the 2009 Session so that members can vote on whether to approve and introduce a pilot project.

HJR 90: Joint Subcommittee Studying Science, Math, and Technology Education at the Elementary, Secondary, and Undergraduate Levels

November 17, 2008

Some schools in Virginia are making the effort to promote children's engineering, but professional development is necessary for teachers to feel comfortable incorporating the fundamentals of engineering into every subject area.

The Joint Subcommittee Studying Science, Math, and Technology Education held its final meeting on November 17, 2008, in Richmond.

Presentations

Cindy Jones, Virginia Children's Engineering Council

Cindy Jones discussed the benefits of teaching children's engineering in grades K-5, and across subject areas. Ms. Jones highlighted several programs and schools in Virginia that are making the effort in the area of children's engineering and encouraged the joint subcommittee to find a way to promote children's engineering by funding the professional development necessary for teachers to feel comfortable incorporating the fundamentals of engineering into every subject area. She estimated that it would take between \$1.5 and \$3 million to make sure that at least several teachers in every school or in every school division could be trained and then they could take that knowledge back to their schools to train others.

Dr. Darrel W. Staat,
Central Virginia Community College

Dr. James Groves,
University of Virginia (UVA)

Dr. Staat and Dr. Groves provided the joint subcommittee with information about the Produced in Virginia program. Produced in Virginia is a partnership between the School of Engineering and Applied Science at the University of Virginia and the Central Virginia Community College (CVCC) that offers students the ability to earn an Associate of Science in Engineering (or equivalent) degree and become eligible to enter into the UVA Engineering Science undergraduate

program. Students can ultimately earn their Bachelor of Science degrees in engineering science by successfully completing a mixture of on-site and distance learning courses. The first students to participate entered the program in the fall of 2007 and are currently 18 months into the program. A local company in Lynchburg funded the majority of the start-up costs for CVCC and, along with 12 other local companies, funded many scholarships for tuition, fees, and books. Additionally, the local companies have hired many of the engineering students for internships. Currently no state money is supporting the program, but UVA and the VCCS intend to continue with expansion plans because the need for the program has become evident. Partnerships with companies located near community colleges so far have provided the best option for steady funding and it is in the companies' best interests to hire local employees.

Public Comment

The joint subcommittee heard brief public comments before taking a vote on the final recommendations. Comments included support for a children's engineering curriculum in grades K-5; an interdisciplinary approach to the teaching of the STEM subjects of science, technology, engineering, and math; and support for the funding of math specialists.

Final Recommendations

The joint subcommittee approved the following recommendations, which will be advanced during the upcoming 2009 Session of the General Assembly.

- A resolution recognizing the seven new Career and Technical Education Academies and

encouraging local school divisions to consider establishing an academy based on the Board of Education criteria for establishing a Governor's Career and Technical Education Academy.

- A resolution endorsing and supporting Project Lead the Way and recent efforts on the part of the Department of Education to provide four start-up grants in 2008 for schools to implement Project Lead the Way.
- Add section requiring the Center for Innovative Technology to survey Virginia's technology industry every two years on the demand for graduates in STEM fields and report findings to institutions of higher education, the General Assembly, and the Joint Commission on Technology and Science.
- A resolution recognizing the efforts of UVA and the Virginia Community College System, specifically Central Virginia Community College, to collaborate in establishing an engineering partnership that offers students the ability to earn an Associate of Science in Engineering (or equivalent) degree and become eligible to enter into the UVA Engineering undergraduate program. Students can ultimately earn their Bachelor of Science degrees in engineering by successfully completing a mixture of on-site and distance learning courses.
- A resolution encouraging school systems to use existing intervention, remediation, and at-risk funding to hire K-8 mathematics teacher specialists as an effective means to improve the performance of low achieving students and to support K-8 mathematics specialists who have earned the Virginia Board of Education's licensure endorsement. Mathematics specialists would provide targeted mathematics intervention and remediation.

- A resolution directing the Board of Education to study the need for creating either a STEM teacher specialist endorsement, a science teacher specialist endorsement, or a combination of the two and to report to the General Assembly by January 1, 2011.

In addition to the recommendations, there were numerous suggestions and recommendations generated by the joint subcommittee with an eye toward an improved economic landscape. All of the recommendations will be highlighted in the final report.

An Executive Summary of the joint subcommittee's findings and recommendations for the year will be submitted no later than the first day of the 2009 Regular Session and a final report will soon follow.

The joint subcommittee made numerous recommendations for legislation during the 2009 Session, as well as offered suggestions with an eye on an improved economic landscape in the future.

HJR 90

*Joint Subcommittee Studying
Science, Math and Technology
Education in the Commonwealth
at the Elementary, Secondary,
and Undergraduate Levels*

Delegate John Cosgrove, Chair

Nikki Cheuk and Patrick Cushing, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/TechEd.htm>

DLS REPORT ON HB 1441

House Bill 1441, enacted by the 2008 Session, requires the *Division of Legislative Services* to report annually concerning all reports, actions, and data collection required by legislation or otherwise requested of state agencies and collegial bodies by the General Assembly. The first report in compliance with the new law may be found on the Legislative Information System (LIS) website at <http://leg1.state.va.us> under "Searchable Databases: Reports to the General Assembly."

The report is organized by standing committees in the House and Senate and is designed to provide information to members regarding the status of reports and other information within the purview of the respective committees that have been requested by the General Assembly. For additional information, please contact Brenda Edwards, DLS Staff, at (804) 786-3591 or bedwards@dls.virginia.gov.

Did You Know?

"Did You Know?" will appear in each issue of the Virginia Legislative Record. The article will feature important topics or interesting facts relevant to the Virginia General Assembly. For general questions or issue suggestions, please contact the Division of Legislative Services at (804) 786-3591 or by email to emiller@dls.virginia.gov.

Virginia's Revenue Estimating Process

Virginia's process of estimating revenues has been largely unchanged for many years. Although the Governor of Virginia is required to introduce a Budget Bill by December 20th, one of the first steps in the process begins months earlier when the process of formulating the official revenue estimate begins. The specific steps in the process are governed by Section 2.2-1503 of the Code of Virginia.

The first step in the process is when the Virginia Board of Economists, 15 members all appointed by the Governor, convenes to present its view of economic conditions and the economic outlook for the upcoming budgetary period. The Board also evaluates recent revenue collections with the most recent official forecast to determine if the econometric models need to be refined or adjusted. The Department of Taxation serves as staff to the Board. The Board has access to the state's economic forecasting service—Global Insight. The staffs of the Division of Legislative Services, House Appropriations, and Senate Finance Committee are invited to hear and participate in the discussions of the Board. Once a consensus forecast for economic activity is determined, the Department of Taxation plugs these estimates into the econometric models to determine the preliminary revenue estimates.

The next step in the revenue estimating process is when the Governor's Advisory Council on Revenue Estimates reviews the economic forecast of the Board of Economists, as well as the preliminary revenue estimates. The Council is comprised of business leaders throughout the Commonwealth selected by the Governor. The Council also includes the Speaker and Majority Leader of the House of Delegates, the President pro tempore and Majority Leader of the Senate, and the chairmen of the money committees of both the House and Senate. The members of the Council review the economic outlook based on their knowledge of Virginia and the specific sectors in which they are involved. As with the Board of Economists, the meeting is held in Executive Session so that both business leaders and legislative members can speak freely regarding their views on the economy, the revenue estimates, and their own confidential proprietary information regarding the economy.

The last step in the process is when the Governor and his administration take all the consensus forecasts and views of the economic outlook and formulate the official estimates that will serve as the basis of the Governor's Budget Bill.

*- John Garka, Manager
Business & Finance Section, DLS*

HJR 177/SJR101: Joint Subcommittee Studying Benefits of Adopting a Single Sales Factor for Corporate Income Tax Purposes

November 17, 2008

Opening Remarks

Co-chair Walter Stosch presided over the final meeting, which was held in Richmond, of the joint subcommittee studying the benefits of adopting a single sales factor for corporate income tax purposes. He began by thanking everyone for the presentations that had been made and for the ongoing interest in the topic. He reminded everyone it was the final meeting and that he was looking forward to the ideas and discussion to follow. The Senator then asked Mark Vucci, staff to the study, to review for the joint subcommittee questions that need to be considered with regard to the single sales factor formula.

Single Sales Factor Considerations

Mr. Vucci provided the joint subcommittee the following questions to consider:

- To whom should it apply? All corporations or only manufacturers?
- Who is a manufacturer?
- If adopted, should there be a delayed effective date?
- If adopted, should it be conditioned on job growth, capital investment or other economic performance measure?
- If it is not adopted, should a grant program be established to reward manufacturers that increase/retain employees or make capital investments?
- If yes, what is the grant amount and which year is the baseline?

Members' Suggestions

Delegate Pollard

Prior to the meeting, Delegate Pollard had distributed a memorandum in which he shared his thoughts on the topic. He began by

saying it should not be a question of whether something needs to be done to aid business and manufacturing in Virginia but rather what should be done. He then expressed concern about the lack of performance numbers associated with the tax relief provided by the adoption of the single sales factor formula and suggested that some relief with regard to the machinery and tools tax may be a better way to help more businesses. Next, he suggested conformity with the Federal Code regarding bonus depreciation which would offer immediate tax relief for companies making investments in Virginia. The memorandum concluded with the following statement:

"In summary, Virginia needs to maintain a tax code that is business friendly and encourages the core economic activity of manufacturing and intellectual property investments. Given unlimited resources, changing to a Single Sales Factor Formula would have beneficial impacts in that regard. However, since we do not have unlimited resources, I am strongly inclined to look at other sources of tax relief which would have equal relief for companies but would likely have far greater positive economic benefits for the Commonwealth."

Delegate Byron

Co-chair Kathy Byron had also sent out a memorandum before the meeting in which she proposed a "Virginia Single Sales Factor Hybrid Model." Its major components are as follows:

- Optional and for manufacturers only.
- Require companies to elect Single Sales Factor (SSF) for a "minimum stay" of two years.
- Require "performance assurance" from manufacturers through wage certification.
- Phase in over four years beginning in 2010 as follows: 2010 and 2011 -3 factor formula with triple-weighted sales; 2012 -3 factor formula with quadruple-weighted sales; and 2013 and thereafter -100% sales.

Many members think the tax liability on manufacturers is inequitable and that the single sales factor would help Virginia companies that are particularly hard hit.

The joint subcommittee voted to recommend the Virginia Single Sales Factor Hybrid to the 2009 General Assembly.

Other Comments

In general, most of the joint subcommittee members favored the adoption of a single sales factor formula. Many think the tax liability on manufacturers is inequitable and the single sales factor would alleviate that. Those companies that are headquartered in Virginia are hit particularly hard when they have lots of property and payroll in the state. It was suggested that while the single sales factor may not completely save all the manufacturing jobs, it will help slow the rate of loss of those jobs. Another member believes adopting the single sales factor will not result in a revenue loss but will actually increase revenues over a five to ten year period.

Some members were not convinced that the single sales factor will produce the economic benefit that everyone desires and therefore prefer more targeted economic development initiatives. Concern was also expressed about the current economy and having no way of knowing when it might improve.

There was some discussion concerning whether the entire corporate income tax needed to be examined rather than this small segment of it. There was a suggestion that either a JLARC study or a joint subcommittee study would be the way to undertake such an examination.

Options Discussed

The following options were discussed and considered by the members:

- Recommend that the entire corporate income tax structure be studied.
- Look at other tax relief for businesses such as machinery & tools tax or BPOL tax.
- Help businesses through credits or grants.
- Hybrid single sales factor.
- Protect businesses headquartered in Virginia.

Recommendations

After much discussion, a majority of the joint subcommittee agreed to recommend the adoption of Co-chair Byron's proposal for the Virginia Single Sales Factor Hybrid. The members also agreed that other areas of business needed to be evaluated over time.

HJR 177/SJR 101

Joint Subcommittee Studying Benefits of Adopting a Single Sales Factor for Corporate Income Tax Purposes

Senator Walter Stosch and
Delegate Kathy Byron, Chairs

Joan Putney and Mark Vucci, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/ssf.htm>

SJ77: Joint Subcommittee Studying Strategies and Models of Substance Abuse Treatment and Prevention

November 18, 2008

The third meeting of the Joint Subcommittee to Study Strategies and Models of Substance Abuse Treatment and Prevention was held at the General Assembly Building in Richmond. Senator Hanger welcomed the members and speakers and gave opening remarks.

Presentations and Reports

Virginia Recovery Community

John Shinholser, Executive Director of the McShin Foundation, a recovery resource foundation, spoke about the importance of including recovering addicts and members of the recovery community in the substance abuse treatment process. Mr. Shinholser gave a brief overview of the history and development

of recovery community organizations, then identified ways in which existing clinical and professional networks could better coordinate with the recovery community to enhance services and bring about better results for individuals seeking treatment. In conclusion, Mr. Shinholser recommended reimbursement for recovery support services provided by recovery community organizations, equitable recognition of peer training and credentialing, maximizing the authentic recovery community experience, and increasing the role of recovery-based organizations at every level.

Department of Mental Health

Ken Batten, Director of the Office of Substance Abuse Services, presented information on the Department of Mental Health, Mental Retardation, and Substance Abuse Services' efforts to respond to recommendations made in the Joint Legislative Audit and Review Commission's report on *Mitigating the Costs of Substance Abuse in the Commonwealth*, and improve quality, capacity, access, and accountability of substance abuse services in the Commonwealth. Mr. Batten pointed out that current data does not allow the Department to accurately report the effectiveness of services provided by the 40 community services boards, that evidence-based practices (EBPs) are not uniformly utilized in service delivery, and that access to services is limited by capacity and other barriers including a lack of funding. To address these problems, the Department is working to establish standards of care; consistent data collection, analysis and reporting services to study treatment and prevention efforts; effective quality and compliance monitoring processes; and effective IT systems. However, efforts are hampered by recent budget cuts and could be further limited by new cuts in funding.

Outpatient Substance Abuse Services

James Stewart, Inspector General for Mental Health, Mental Retardation, and

Substance Abuse Services, described recent efforts of the Office of the Inspector General to review substance abuse outpatient services for adults, and to determine the range and capacity of all substance abuse services currently available through community services boards. Mr. Stewart reported that the range, variety, and capacity of substance abuse services available were found to be not adequate to meet the needs of consumers in the majority of Virginia communities. Specifically, many community services boards reported inadequate or no capacity in medical and social detoxification programs, medically assisted outpatient treatment, day treatment, intensive outpatient treatment, group counseling, individual counseling, psycho-education group therapy, family support therapy, aftercare services, residential services, and case management. Further most community services boards reported inadequate or no capacity for jail and prison-based services, or community-based services, including drug courts, for persons involved with the criminal justice system. This lack of availability of services was found to result in an average waiting time from first call to first appointment of 25.4 days. The report also found that for many persons needing services, the services were prohibitively expensive, further reducing access. The full report is available on the website of the Joint Subcommittee Study Strategies and Models of Substance Abuse Treatment and Prevention and the website of the Office of the Inspector General.

Department of Education Substance Abuse Challenges

Jo Ann Burkholder, Coordinator, Department of Education, spoke on the impact of substance use on education. Ms. Burkholder noted that substance use and abuse negatively affects the academic progress and success of students, leading to lower grades, higher truancy, lower expectations, and higher drop-out rates. She stressed the importance of prevention efforts and early intervention among students, pointing out that students' brains are still developing and that the impacts

Spokesperson for the Dept. of Education noted that substance abuse negatively affects the academic progress and success of students, leading to lower grades, truancy, and drop-out.

The members decided to discuss and vote on budget and legislation recommendations for the 2009 Session at its next meeting on December 8, 2008.

of substance use on adolescent brains can disrupt brain functioning in critical areas. Ms. Burkholder then described the Department's efforts to prevent and reduce substance use among students, highlighting Student Assistance Programming; drug use and violence prevention activities funded with Safe and Drug Free Schools and Communities Act Funds in Virginia's 132 school divisions; and evidence-based curricula and programs implemented in the Virginia educational system.

Medication Therapy for Substance Abuse Disorders

Morrie Olson, Medical Advisor, Reckitt Benckiser Healthcare, presented information on medication therapy for substance abuse disorders, specifically addressing medical treatment of opioid dependency. He described the role of medications in substance abuse treatment, and past and current uses of medication to treat opioid addiction, most notably the use of methadone. Mr. Olson then discussed a second option, buprenorphine, a synthetic opioid, available for medical treatment of substance abuse disorders. Mr. Olson stated that the drug Suboxone can reduce the misuse, abuse, and diversion of

buprenorphine, reduce potential public health problems, bring about changes in treatment delivery, and improve treatment.

Discussion of Recommendations

At the end of the meeting, the joint subcommittee solicited suggestions for recommendations from stakeholders and decided to discuss and vote on budget and legislation recommendations for the 2009 Session at the final meeting on December 8, 2008.

SJR 77

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

Senator Emmett Hanger, Jr., Chair

Sarah Stanton, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/subabuse.htm>

HJ 248: Joint Subcommittee Studying Biosciences and Biotechnology in the Commonwealth

November 19, 2008

The joint subcommittee held its fourth and final meeting in Richmond. The meeting was used to consider and vote on the final legislative recommendations of the joint subcommittee.

Legislative Drafts

VEDP expansion of duties

The first legislative draft considered would add in the Code of Virginia a requirement that the Virginia Economic Development Partnership (VEDP) promote the biosciences and bioscience-related advances in the

Commonwealth. The draft would add this requirement to the existing duties of VEDP. The joint subcommittee felt that it was important to target promotion of the biosciences specifically, as many exciting research and commercialization advances take place regularly in the Commonwealth, but there is currently no central effort to promote these achievements statewide. This promotion will help Virginia compete with neighboring states Maryland and North Carolina that have a well-established biotechnology industry and will help demonstrate that Virginia is also highly competitive in this field.

The draft language presented to the joint subcommittee would require VEDP to

"formulate, promulgate, and advance programs in the Commonwealth to encourage the development of research and industry in fields related to the biosciences, including marketing and promoting biosciences-related research advances and business developments in the Commonwealth." The joint subcommittee voted to recommend this legislation in concept, with amendments that would clarify that VEDP would be required to undertake initiatives related to the promotion of biosciences, and would not need to create new programs. In addition, the joint subcommittee recommended that language be included that clarifies that marketing may be done through the use of press releases and VEDP's website.

Investment tax credit

The second legislative draft considered by joint subcommittee would amend the existing qualified equity and subordinated debt investment tax credit. Currently, an eligible business for investment purposes is defined broadly, and the Department of Taxation has indicated that it might include businesses other than technology-related companies. Therefore, bills seeks to redefine what is considered an eligible business, and to do so in a narrow way. The proposed definition would be limited to businesses in the fields of advanced computing, advanced materials, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, medical device technology, nanotechnology, or other similar technology-related field.

The bill, as proposed to the joint subcommittee, would have also required that in order to be considered an eligible business, the company would need to have been created to commercialize proprietary research developed at or in partnership with an institution of higher education. After receiving comment on the draft, the joint subcommittee decided that this element narrowed the credit too far, as very few companies in the Commonwealth would meet this criteria. Instead, it was proposed that the credit be split so that fifty percent of

the funds available for the credit be reserved solely for companies that were created to commercialize university research and development, and the remaining fifty percent of the credit would be open to any company that fit the definition of an eligible business, regardless of whether or not it was created to commercialize university research and development. Under current funding mechanisms, this would mean that \$1.5 million in credits would be reserved for the university-related businesses. The joint subcommittee voted to recommend this legislation, as amended.

Technology funding

The final bill considered by the joint subcommittee would amend the existing Commonwealth Technology Research Fund (CTRF). The Fund would be renamed the Commonwealth Research Commercialization Fund, as uses of the Fund would be focused on commercialization efforts. The Fund would be limited to research programs and technologies focused in the fields of energy, conservation, environment, microelectronics, lifespan biology and medicine—the fields of research that the Virginia Research and Technology Advisory Commission recommended in 2007 as areas in which the Commonwealth excelled, and where research should be focused. The Funds could be used to support three different programs, the focus of which is to be determined by the Secretary of Technology, the Virginia Economic Development Partnership, and the chairman of the Innovative Technology Authority:

- Matching federal Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) grants.
- Assisting qualified institutions in leveraging federal and private funds for the commercialization of qualified research.
- Creating a program for loans of up to \$500,000 to finance facilities used for commercializing research.

The third proposal generated substantial discussion. Currently, the CTRF is funded at \$1 million per year. Since its inception, it has

*The members
voted on three
legislative
drafts to be
recommended
to the 2009
General
Assembly.*

The study achieved its goal of developing practical legislative recommendations to advance the fields of biosciences and biotechnology in Virginia.

been funded at up to \$10 million per year, and in some years no funding has been provided. As a result, the joint subcommittee had concerns at balancing the demands on the Fund and the accompanying workload in reviewing applications with the amount of Funds available. For example, Virginia is currently quite successful in obtaining SBIR and STTR grants, and in a given year, the CTRF may not be funded at a high enough level to match all of the grants. However, it is likely that all eligible grant recipients would apply for the matching funds. Therefore, it was suggested that if the CTRF was funded at less than \$7 million per year, the only SBIR and STTR grants eligible to apply for matching funds would be those awarded by the National Institute of Health, and the matching grants would be capped at \$50,000 for the development of a commercialization plan for the SBIR or STTR technology. There was also discussion as to whether the loan program could be effective, given the current low funding of the CTRF. It was agreed, however, that the language would be left in, as it is a discretionary program that could be instituted when funds allow. The joint subcommittee voted to recommend the bill with

amendments to the provisions relating to the SBIR/STTR matching grant program.

Final Remarks by the Chairman

Delegate Sickles, chair of the joint subcommittee, thanked all of the subcommittee members for their hard work and thoughtful discussions over the course of the Interim. The chairman said that his goal for the joint subcommittee was to develop practical legislative recommendations to advance the fields of biosciences and biotechnology in the Commonwealth, and he felt like the joint subcommittee exceeded this goal.

HJR 248

Joint Subcommittee Studying the Development and Enhancement of the Biosciences and Biotechnology in the Commonwealth

Delegate Mark Sickles, Chair
Senator Janet Howell, Vice Chair

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

<http://dls.virginia.gov/biotech.htm>

HJR 72: Joint Subcommittee Studying Public-Private Partnerships Regarding Seaports in Virginia

December 1, 2008

The joint subcommittee held its fourth meeting at Old Dominion University in Norfolk. Legislative members of the joint subcommittee in attendance were Delegates Purkey (chairman), Joannou, Massie, and Melvin and Senators Lucas and John Miller. Nonlegislative members of the joint subcommittee in attendance were Messrs. Coffey, Godfrey, Martinez, Moye, Padgett, and Sisco. A designee represented Mr. Whyte, also a nonlegislative member. Delegate Purkey called the fourth meeting of the joint subcommittee to order and delivered opening remarks.

Presentations

Eric Sisco, APM Terminals Americas

Eric Sisco delivered a presentation to the joint subcommittee after first answering questions posed by Dr. Wayne K. Talley, Executive Director of the International maritime Ports and Logistics Management Institute at Old Dominion University. Mr. Sisco began his presentation by discussing the history, portfolio, and commitments of APM Terminals Americas. Next, Mr. Sisco showed to the joint subcommittee a video that highlighted the operations of APM Terminals Americas. He then described, quantitatively, APM Terminals Americas' impact on the

Hampton Roads community, specifically noting the \$6 million it pays to the City of Portsmouth in property taxes. Mr. Sisco stated that APM Terminals Americas' supports the surrounding community through its provision of "technologically-advanced jobs and workforce training" to residents of the community. He also described those industry structures relating to the ownership and operation of ports; Mr. Sisco provided a chart illustrating such description.

While noting the benefits of private investment and operation in or of Virginia seaports, Mr. Sisco discussed how strategic operators contribute most to the seaports' value in the long-term and how financial investors with "high-levered investments are being challenged in the current economic environment." Moreover, Mr. Sisco opined that economic development and a "more efficient approach toward capacity development" could be maximized through permissible coordination between APM Terminals Americas and the Virginia Port Authority and Virginia International Terminals. Mr. Sisco concluded his presentation by suggesting future examinations, explorations, and reviews the joint subcommittee could make.

Bill Ralph, R.K. Johns & Associates

Bill Ralph delivered a presentation to the joint subcommittee regarding port-related,

public-private partnerships. He discussed the attractiveness of public-private partnerships to governing bodies of port authorities, citing the resulting redeployment of government spending and asset monetization. Likewise, Mr. Ralph discussed what attracts private investors to the seaport industry, and noted such attraction results from "visible and predictable earnings," "long-term leases [and] low risk assets," and "inflation linked revenues." Next, Mr. Ralph discussed the two types of private buyers of ports: "strategic buyers (carriers and global terminal operators)" and financial buyers, which include both aggressive investors who seek to "maximize the purchased asset value through debt leverage" and passive investors who "focus on the asset providing a stable, longer term yield for the owners." Furthermore, Mr. Ralph discussed changes in 2008 regarding the new availability and cost of debt (e.g., higher rate; more stringent leverage requirements), the availability of capital as infrastructure funds, the reemergence of strategic buyers in "build-to-suit" concessions and open bidding, and the pursuit of public-private partnerships and sale opportunities by ports and terminal operators. Lastly, Mr. Ralph listed several key considerations he

The joint subcommittee plans to meet four times in 2009 to continue its work as authorized under HJR 72.

* Ports Table			
Port Type	Publicly Owned and Operated	Lease/Concession	Public-Private Partnership
Descriptions	Port authority is responsible for capital investment in infrastructure and equipment	Port authority leases land to private operator, typically for 30-50 years	Greater responsibility to private sector for infrastructure development
	Port authority typically runs yard, gate, and vessel operations	Port authority invests in major infrastructure development and quay wall	Public entities invest in connecting infrastructure (roads, rail, channel)
	Port authority may subcontract operations or other to stevedoring company in shorter-term contract	Port operator typically invests in equipment, buildings, and paving to ready the land for operational use	Private operator invests in major port infrastructure, taking increased risk in return for a long-term concession
City and State Examples	Savannah, Charleston, Houston, and Kingston	Los Angeles, New York, New Jersey, Tacoma, Jacksonville, Miami, and Oakland	Vancouver, Mobile, and Virginia

* Information provided by Eric Sisco, President and CEO, APM Terminals Americas

suggested that the joint subcommittee and other public bodies take into account when reviewing public-private partnerships relating to ports.

Member Comments

Each joint subcommittee member commented on the past and future workings of the subcommittee. Additionally, Jerry A. Bridges, Executive Director of the Virginia Port Authority and Joseph A. Dorto, President and CEO of Virginia International Terminals, Inc., both offered statements in response to the presentations made and the discussions that took place.

Future Plans

The joint subcommittee plans to meet four times, as authorized under HJR 72 in 2009. Additional information on the presentations may be found on the study website.

HJR 72

Joint Subcommittee Studying Public-Private Partnerships Regarding Seaports in Virginia

Delegate Harry Purkey, Chair

Caroline Stalker and Kevin Stokes, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/ports.htm>

SJR:75 Joint Subcommittee Studying the Comprehensive Services Program for At-Risk Youth and Families

Localities received an average of \$14,600 per year from the state to administer CSA, an amount that has been level since 1997.

The third meeting of the Joint Subcommittee Studying the Comprehensive Services Program for At-Risk Youth and Families was held on December 1, 2008, in Portsmouth. Senator Emmett W. Hanger, Jr., gave opening remarks and announced that a final meeting would be held in early January in Richmond.

Presentations

Nathalie Molliet-Ribet, CSA
Administrative Costs and Funding

The first speaker was Nathalie Molliet-Ribet, who spoke on the issue of administrative costs and funding for the CSA program. JLARC first studied this issue in 2006, and her presentation came from that study. Ms. Molliet-Ribet went over the purpose of administrative funding and the role of CSA staff in administering the program. She pointed out that localities with CSA coordinators had lower overall costs than localities that did not. Localities receive an average of \$14,600 per year from the state to administer CSA, an amount that has been level since 1997. Localities must supplement this money with local funds. Most still do not have full-time CSA coordinators. Some instead have part-time staff or none at

all, which adversely affects localities in many areas, including negotiating contracts with providers, monitoring outcomes, and identifying alternate funding sources.

Delegate Hamilton pointed out that funding for this program is skewed against localities, more so than other programs.

Gail Schreiner, Reynold Jordan, and Dr. Roderick Hawthorne, Portsmouth CSA

The next speakers were representatives of Portsmouth's CSA program. They discussed some of their more innovative programs. One such program includes therapeutic day treatment in public schools for students with emotional problems. They also discussed the importance of holding FAPT meetings in schools in order to bring in more parents. They stressed that going into schools is key to early intervention.

Portsmouth also has innovative foster care programs, including the CARES program, which includes parent/family training for foster families and individualized services for children. The program is a public/private partnership, which creates more value with higher quality services for the children. There is also a homeless brokerage program, which finds ways to keep children out of foster care by keeping

families from becoming homeless. The program looks for landlords to lower rents, waive deposits, and also offers to oversee tenants. Keeping families together is ultimately less traumatic for the child as well as cost effective for the state.

Portsmouth has had some success with its CSA program, such as 271 children served in fiscal year 2008 and for the past two years the congregate care rate has been 11% (national best practice is 10%). However, there are still problems, for example, permanent placement for a 16 year old coming into foster care is just not feasible before they age out of the system. The group concluded with a final message that CSA can work and the Portsmouth DSS demonstrates this with its successful programs.

Dr. Susan Dye, Virginia Beach CSA

The next speaker was Dr. Susan Dye of the Virginia Beach CSA program. She also gave an overview of some of its successful programs, including the Pendleton Child Service Center, which is a private facility that offers a three month residential program for children in Virginia Beach. The program requires intense parental involvement, in fact, parents must be there five days a week. They are also starting to use professional foster homes, which are homes with highly trained parents who do not work outside of the home. These parents have shown some success in working with challenging children, however, recruitment of such parents is difficult.

Virginia Beach currently has about 40 of its 700 CSA children in residential care. Many of these children have juvenile justice problems. Community-based group homes seem more appropriate for these children, perhaps because their backgrounds have made them so unaccustomed to a family environment. Virginia Beach is also facing challenges with its CSA program, including children who are not responsive to treatment, children who age out, and especially in the Virginia Beach area, problems with children of military families. Military families with special needs children are often transferred here because of the specialized services available, however, no additional funds, federal or otherwise, are appropriated for this purpose.

For this reason, military families are adding strain to the Virginia Beach CSA budget.

Denise Gallop and Mike Terkeltaub,
Hampton/Newport News CSA

Denise Gallop of the Hampton CSA spoke about how the program is currently focused on looking at data previously collected and using this data to improve the program. One important lesson CSA has learned from the data is that families need to be more involved in the process. Ms. Gallop stressed that CSA would not have realized this was a problem if not for the data, and now this is an area it focuses on improving.

She also discussed a program called Youth in Fast Forward, which was initiated by a local judge, Judge Jay Dugger. The program is modeled after a program to send adults back to work and has now been modified for young adults aging out of the foster care system. The program brings public and private providers together to help young people transition out of foster care and into successful adult lives.

Ms. Gallop noted the importance of core values and beliefs to success—help one child at a time; families are the experts about their families; programs must be child-centered and family-focused; and to realize progress begins with the outcome, not the process.

Final meeting

The joint subcommittee will meet again in January to vote on any final recommendations for the 2009 Session.

SJR 75

Joint Subcommittee Studying the Comprehensive Services for At-Risk Youth and Families

Senator Emmett Hanger, Jr., Chair
Delegate Phillip Hamilton, Vice Chair

Sarah Stanton and Jessica Eades, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/CSA.htm>

The joint subcommittee will vote on any final recommendations to the 2009 General Assembly at its final meeting in January.

SJR 122: Joint Subcommittee to Study Regional Rapid Transit Networks

The VRE operates two lines in Manassas and Fredericksburg and runs 29 trains at 18 stations, as well as connects to Metro in five locations and Amtrak in seven locations.

December 4, 2008

The meeting was called to order followed by brief opening remarks by Chairman Barker. The Honorable Pierce R. Homer, Secretary of Transportation, Mr. Dale Zehner, Chief Executive Officer, Virginia Railway Express (VRE), and Mr. Tom Harrington, Director of Long Range Planning, Washington Metropolitan Area Transit Authority (WMATA) were in attendance and made presentations before the joint subcommittee.

Remarks by Secretary Homer

Secretary Homer began by expressing the Governor's interest in and support of this study. He then discussed the notion of travel choices in Northern Virginia, focusing on the Interstate 95, Interstate 66, Interstate 495 and Dulles Toll Road corridors. For instance, travelers on Interstate 95 and Interstate 66 have choices which include Metro, HOV, bus, and VRE service. On the other hand, Interstate 495 is the busiest road with the least number of options. Secretary Homer explained that the keys to successful regional transit service in Northern Virginia include: time advantage, reliability of service, frequency of service, connectivity between regional activity centers, and dedicated operational funding. The keys to successful HOV service in the region include: time advantage, reliability of location, safe parking, and nearby bus service. Secretary Homer explained that it is important to create credible, reliable options in these travel corridors so that there are as many travel choices as possible.

Presentations

Dale Zehner, VRE

Dale Zehner provided a brief overview of Virginia Railway Express (VRE), which

began service in 1992 and operates two lines: Manassas and Fredericksburg. VRE runs 29 trains at 18 stations and connects to Metro in five locations and Amtrak in seven locations. VRE operates on 90 miles of track and averages 16,500 daily riders. Mr. Zehner explained that VRE leases track access from CSX for the Fredericksburg line and Norfolk Southern for the Manassas line. VRE has an annual budget of \$79 million for fiscal year 2009 and employs 37 full time staff. In terms of who rides VRE, Mr. Zehner stated that over 70% of riders have a household income greater than \$100,000 per year. Commuter rail is characterized by multi-trip tickets, station to station fares, 20-30 minute headways, and is usually a long-haul commute (i.e. 50-60 miles from a central business district). Mr. Zehner explained that commuter rail is not a subway, light rail or trolley system and it does not carry heavy volume. Mr. Zehner looked at VRE's impact on the region, including reducing congestion and lowering emissions. Possible growth opportunities for VRE include the Gainesville/Haymarket and Spotsylvania County extensions. Mr. Zehner closed his remarks by commenting on challenges for VRE growth: VRE has no dedicated funding source; there is a shortage of both mid-day train storage in DC and auto parking at key VRE stations; and the governance structure does not allow for growth outside of existing jurisdictions without membership additions.

Tom Harrington, WMATA

For the day's final presentation, Mr. Harrington provided information on the Metro system. It is the second largest rail transit system and the fifth largest bus network in the nation. Metro provided over 347 million passenger trips in fiscal year 2008. Mr. Harrington explained that Metro serves an area of 1,500 square miles and a population of over 3.5 million. Metro has no dedicated source of funding. Metrorail ridership is expected to increase from 800,000 daily trips in 2008 to 950,000 daily trips in 2020. In addition,

Metrobus ridership is predicted to grow from 475,000 daily trips in 2008 to 550,000 daily trips in 2020. Mr. Harrington stated that Metro's planning approach is to maximize the capacity of the existing system, balance system maintenance needs with system expansion, and develop an integrated multimodal transit system. Mr. Harrington looked at some options for serving the Interstate 95 and Interstate 66 corridors, including extensions of the Orange, Blue, or Yellow lines.

Final Meeting

Prior to adjournment, Chairman Barker asked the committee members to think about possible recommendations for the final meeting, to be held on December 18, 2008, at the Potomac-Rappahannock Transportation District Transit Center in Woodbridge.

SJR 122

Joint Subcommittee to Study Regional Rapid Transit Networks

Senator George Barker, Chair

Alan Wambold and Caroline Stalker, DLS Staff

(804) 786-3591

<http://dls.virginia.gov/transit.htm>

Possible recommendations to the 2009 General Assembly will be discussed at the final meeting to be held on December 18, 2008, in Woodbridge.

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

DLS BULLETIN BOARD

- 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 requests for drafts of legislation for prefilng to be submitted to DLS by 5:00 p.m. on December 8, 2008.
- All drafts of legislation to be prefiled returned by DLS for requester's review by midnight January 2, 2009.
- All requests for drafts, redrafts, and corrections of legislation creating or continuing a study to DLS by 5:00 p.m. on January 9, 2009.
- All requests for redrafts and corrections for legislation to be prefiled to DLS by 5:00 p.m. on January 9, 2009.
- Covered drafts of legislation to be prefiled available at DLS by noon on January 13, 2009.
- All requests for drafts, redrafts, and corrections for first-day introduction bills to be submitted to DLS by 5:00 p.m. on January 13, 2009.
- Prefiling for the 2009 Session ends at 10:00 a.m. on January 14, 2009.
- The 2009 General Assembly convenes on January 14, 2009, at noon.

HJR 194: Joint Subcommittee to Study the Transportation Network of Hampton Roads

December 10, 2008

The members will recommend to the 2009 General Assembly that the study be continued for an additional year to explore an extension of the HRBT and widening of I-64 in the Hampton area.

The joint subcommittee met at the Virginia Modeling, Analysis, and Simulation Center in Suffolk with Chairman S. Chris Jones presiding.

Presentation

Mike Robinson, Senior Project Scientist, Virginia Modeling, Analysis and Simulation Center (VMASC) presented the final report of VMASC's Hampton Roads Alternatives Project. The Project concentrated on six alternatives recommended by the Hampton Roads Metropolitan Planning Organization (MPO) as follows:

- Construction of a Third Crossing between the Peninsula and Southside Hampton Roads (in two phases).
- Construction of the Southeastern Parkway/Dominion Boulevard project linking Virginia Beach and Chesapeake.
- Widening the Midtown Tunnel to four lanes (two in each direction) and extending the Martin Luther King Freeway (four lanes) to connect to Interstate Route 264.
- Improving U.S. Route 460 between Suffolk and Interstate Route 295 near Petersburg, including the eventual construction of a new facility paralleling the present route.
- Widening Interstate Route 64 on the Peninsula as far west as Virginia Route 199 near Williamsburg.
- Widening Interstate Route 64 on Southside Hampton Roads between Battlefield Boulevard in Chesapeake and Bowers Hill in Suffolk.
- At the request of the Joint Subcommittee, VMASC also modeled the congestion impacts that would result from expansion of the Hampton Roads Bridge Tunnel (HRBT).

The project compared data from 2000 with 2030 projections using both a "no build" scenario that assumes that none of the seven projects would be built and an "all build" scenario that assumes that all of the projects would be built.

The study demonstrated that failure to build any of the proposed improvements would result in peak traffic demand almost double the available capacity of key transportation corridors, especially during the tourist season. VMASC's efforts indicated that the six projects approved by the MPO would provide marginal improvement to recurring congestion at the HRBT. The greatest benefit would be brought about by the construction of the Third Crossing (both phases), which would reduce demand on the HRBT. As expected, the greatest improvement at the HRBT occurs if this facility is expanded, but even this improvement leaves significant recurrent congestion during peak use periods. If the HRBT is widened to eight lanes, analysis indicates that the facility will be able to discharge peak demand in 2030. Such an expansion would also reduce incident-induced congestion and improve travel times.

Recommendations

Following a discussion, Delegate Oder moved that legislation be offered in the 2009 Session to extend the joint subcommittee's mandate for an additional year, and that this further study specifically include consideration of extension of the HRBT to connect the Peninsula to Terminal Boulevard and widening of Interstate Route 64 on the Peninsula between Interstate Route 664 in Hampton and Interstate 295 east of Richmond. Several members of the audience also made suggestions for further items to be studied, including leveraging technology, increased use of transit, and traffic management strategies.

HJR 194

*The Joint Subcommittee to Study the
Transportation Network of
Hampton Roads*

Delegate S. Chris Jones, Chair

Alan Wambold and Caroline Stalker,
DLS Staff

(804) 786-3591

COMMISSIONS AND COUNCILS

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

Virginia Commission on Coal and Energy 11-6-08

After a call to order, Senator Wagner provided the Commission with a review on the background and importance of domestically supplied natural gas. He pointed out that purchases of foreign energy total more than \$700 billion each year.

PRESENTATIONS

Renee Orr, MMS

Renee Orr from the federal Minerals Management Service (MMS) introduced the legal framework applicable to offshore drilling and exploration. The controlling law is the Outer Continental Shelf Lands Act, which provides that "the Outer Continental Shelf is a vital national resource . . . which should be made available for expeditious and orderly development, subject to environmental safeguards. . ." For its part, the MMS operates a Five Year Plan that sets forth the size, timing, and locations available leases. In recent years, the Five Year Plan has been accelerated. The current Five Year Plan applicable to the years 2007-2012 plan may be replaced, before its fulfillment, by another Five Year Plan applicable to the years 2010-2015. Virginia is the only Eastern state with offshore leases available off its coast and is uniquely positioned with a three to four year advance on any other states that might be included in a future Five Year Plan. Delegate Kilgore asked about the length of time required to accomplish a specific sale. Ms. Orr responded that the arrangement of a lease sale may require between 18 months and two years. Operations on the lease may also then require further administrative approvals.

Senator Wagner pointed out the general triangular shape of the parcel of land off the coast of Virginia and noted that there is disappointment with the area designated. The MMS applied internationally accepted standards for drawing boundaries to determine the offshore parcels and the respective states with which that parcel would be

associated. Whether a coastline is convex or concave can have a significant effect on the area contained in the offshore parcels and, therefore, the amount of any royalties available from revenue sharing programs.

Carl Hobbs, VIMS

Carl Hobbs from Virginia Institute of Marine Science (VIMS) provided the Commission with background on the environmental issues that should be considered if offshore drilling in federal waters off the coast of Virginia becomes a reality. The environmental issues are far reaching and numerous aspects of the drilling operation must be considered: production platforms; transportation of the gas or oil to the shore; consequences of submarine pipelines; and the interface of the pipeline and the shore. Mr. Hobbs also noted the various regulatory parties that might oversee offshore drilling activities.

Lawrence Sullivan, Society of Petroleum Engineers

Lawrence Sullivan discussed the significant improvements made in the drilling industry over the past fifty years. He predicts that technology will evolve to a full zero impact by 2012 based upon what we see today in Norway. In fact, technology for drilling, completion, and production rivals that found at NASA and in the U.S. military for its safety, security, and efficiency. One of the great challenges to the industry is the availability of training of the workforce. The knowledge cohort that joined the industry in the late 1970s will retire soon. Virginia has an opportunity to begin training its workforce sooner rather than later if offshore drilling is pursued.

Jim Kibler, AGL Resources

Jim Kibler spoke to the Commission about opportunities for the natural gas industry if drilling is pursued offshore of Virginia. The vast majority of existing production comes from the Gulf of Mexico, an area vulnerable to hurricanes and waning discoveries. New production areas will require a skilled workforce and infrastructure to deliver the gas to market. Downstream economic benefits to the Commonwealth would include stabilized natural gas supplies, jobs, investment, tax revenues, and royalties.

Jerry Grantham, Virginia Oil and Gas Association

Jerry Grantham presented the Commission with an overview of the natural gas industry in Virginia. The resources found in Southwest Virginia are varied and include coal bed methane recovery, tight gas sands, and gas shale. While many wells in Virginia would be needed to produce the same amount of gas as one well in Texas, the economies of scale do not necessarily weigh in favor of fewer, larger wells. The cost of inputs, maintenance, and skilled labor may be less when managing many smaller wells.

OTHER BUSINESS—URANIUM MINING

Delegate Kilgore introduced the issue of uranium mining to the Commission and discussed some of the questions that have arisen in the local communities before opening the floor to the public.

Todd Benson with the Piedmont Environmental Council stated that his organization is opposed to uranium mining in Virginia and asked whether the proponents of the study would be able to show five instances where mining has been performed safely. Mr. Benson also noted the emphatic dissent of Elizabeth Haskell during the last study on uranium mining during the 1980s.

Delegate Kilgore assured the attendees that the Coal and Energy Commission strongly desires to involve the public at every stage of the study. Nancy Pool, president of the Halifax County Chamber of Commerce, approached the podium and asked that Delegate Hogan form a task force to solicit the opinion of citizens in the region. Cale Jaffe, representing the Southern Environmental Law Center, asked that any study of uranium mining proceed with caution. He expressed his hope that the study encompassed a view of risks to the mine over its entire life and examined the risks of natural disasters such as hurricanes. Mr. Jaffe drew the Commission's attention to the fact that other uranium mining operations that have been conducted in arid climates without the risks of flooding. Mr. Jaffe also noted that a genuinely cautious study may find that mining cannot be performed safely and that the hard work of a study must be done by a reputable organization like the National Academy of Sciences.

Delegate Hogan spoke to the Commission to express his hope that all parties who care about this issue will have the opportunity to contribute to the subcommittee. A representative from Southside Concerned Citizens expressed the concern that the broad issues reviewed by the subcommittee will be

taken seriously and that the public will have an opportunity to be heard. Delegate Danny Marshall stated his agreement with Delegate Hogan and asked that the scope of the study is broad and includes an examination of uranium mining on agriculture and real estate prices. He hopes that the subcommittee will hold some of its meetings in the communities that would be affected.

Katie Whitehead, with the Dan River Basin Association, contributed to the Uranium Administrative Group that studied the issue in the 1980s. She expressed her interest in public education and public participation, especially at the front end when deciding whether to do a study and the scope of that study. Sara Motley, a nurse and resident of Chatham, expressed her respect for the stakeholders and cautioned the Commission to be careful.

Whit Clement spoke on behalf of Virginia Uranium and assured the members that the owners do not want to do anything that would hurt their community. The only thing sought by Virginia Uranium is a fair, independent, and unbiased study of the science, health, and welfare issues.

Delegate Kilgore introduced the motion of the Commission to appoint a subcommittee to study the issue of uranium mining. The Commission voted unanimously to approve the motion.

NEXT MEETING

Information on the next meeting of the Coal and Energy Commission will be posted on the DLS website as soon as a date has been determined.

Coal and Energy Commission

THE HONORABLE TERRY GILGORE, CHAIR

Ellen Porter, DLS Staff

Telephone (804) 786-3591

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

Virginia Sesquicentennial of the American Civil War Commission - *Executive Committee* 11-17-08

Executive Committee members present: Speaker William J. Howell, Delegate Albert C. Eisenberg, Delegate Algie T. Howell, Jr., and Dr. Charles F. Bryan, Jr.

Speaker Howell called the meeting to order and welcomed members. He announced that this would be the last meeting of any of the Commission's subcommittees for the year.

Presentations

INFORMATIONAL BRIEFING: BATTLEFIELD PRESERVATION GRANTS

Kathleen Kilpatrick, Director, Department of Historic Resources

Kathleen Kilpatrick briefed the Commission on recent awards made from the Civil War Battlefield Preservation Fund, which received an appropriation of \$5 million during the 2008 General Assembly session. The funds require a 2:1 match, yielding \$15 million for battlefield preservation. The Department of Historic Resources established criteria for grant disbursement and affirmative recruitment to ensure that the highest priority sites were protected. Twenty-one grants have been disbursed to four nonprofits, protecting over 1,500 acres.

In response to questions, it was noted that of 384 priority battlefields identified by Congress, one-third are in Virginia. Ms. Kilpatrick indicated that, while the state is doing well in terms of acres that have been preserved, there is still a lot of work to be done protecting remaining threatened land in the Commonwealth.

CIVIL WAR PRESERVATION TRUST: 2009 TEACHER INSTITUTE

Jim Campi, Policy Director

Jim Campi discussed the Civil War Preservation Trust's (CWPT) very successful Teacher Institute program, which is held over a three-day period and involves as many as 200 teachers from across the country. The 2009 Civil War Teacher Institute will be held in Spotsylvania County from July 24-26. The goal of the Institute is to impart in teachers not only a better understanding of the Civil War for themselves, but also to give them the tools to teach the Civil War, including how to incorporate battlefield

interpretation. Mr. Campi invited the Commission to partner with the CWPT on the 2009 Institute, in ways that could include: (i) endorsing the Teacher Institute; (ii) offering a letter of welcome to be included in the Teacher Resource book; (iii) advertising Commission events and its website in the Teacher Resource book; (iv) sending Commission members to participate in the Institute; (v) screening the educational DVD for teachers; and (vi) providing resource materials for teachers in the exhibit area. Staff was directed to work with Mr. Campi to establish a partnership for the 2009 Civil War Teacher Institute.

DVD PREVIEW: "VIRGINIA IN THE CIVIL WAR, 1859-1865: A SESQUICENTENNIAL REMEMBRANCE"

Jim Hammerstrom, Producer/Director, Blue Ridge Public Television

Members of the Executive Committee previewed segments of the DVD being produced by Blue Ridge Public Television under the direction of Dr. James I. Robertson, Jr. The DVD is scheduled for completion in June 2009, with distribution beginning in August 2009. It will be distributed, free of charge, to every school, library, and historical society in Virginia. Members of the Executive Committee also asked that attention be given to distribution outside of the Commonwealth, including a partnership with The History Channel.

Staff Reports

DEVELOPMENT UPDATE

Danielle Watkins provided an update on committed donors and pending prospects to the Civil War Sesquicentennial Foundation as well as a plan for donor recognition levels.

WORKGROUP 1 - COORDINATION

Cheryl Jackson gave the report of Workgroup 1, which is chaired by Senator Colgan and oversees the statewide coordination effort.

Local Committees: 95 of the 134 counties and cities have established local sesquicentennial committees to work with the Commission and plan commemorative events. Staff communicates regularly with the local liaisons through a listserv and periodic meetings of the Civil War 150 Local Committee Roundtable.

Kiosks: The Workgroup is developing recommendations to place kiosks throughout the state with information on Civil War-related travel destinations, based on the interactive "Then/Now" map on the Commission's website. There are currently 35 kiosks in operation in Virginia's state parks, which the

Department of Conservation and Recreation has offered to partner with the Commission in creating a larger statewide network of kiosks. The Executive Committee directed staff to form a workgroup to further develop the recommendations, composed of representatives of the Virginia Tourism Corporation, Virginia Department of Transportation, Department of Conservation and Recreation, National Park Service, Dominion Power, and Imperial Multimedia.

Micro-grants to Localities: Earlier in 2008, the Commission made funds available to offer matching grants in conjunction with local committees for marketing of sesquicentennial events that support the goals of the commemoration. The grant program will be administered by the Virginia Tourism Corporation, with the first application window opening in January 2009. The Executive Committee will have review oversight and make final decisions on grant recipients.

MOU Review/Criteria for Letters of Support: Staff reviewed the Memorandum of Understanding that local committees and others who desire to use the Commission's logo must sign, as well as criteria for letters of support or endorsements by the Commission. In all cases, third parties must agree to work in concert with and furtherance of the Commission's goals for the commemoration, which include diversity, inclusiveness, accessibility, education, and positive long-term legacy. Requests for letters of support or endorsement will be brought to the Executive Committee for approval.

WORKGROUP 2 - SIGNATURE EVENTS

Cheryl Jackson provided an update on the plans of Workgroup 2, which is chaired by Speaker Howell and is charged with oversight of Signature Events and Activities.

Signature Conference: The first official sesquicentennial event in the nation is the Commission's inaugural Signature Conference, "America on the Eve of the Civil War." It will be a day-long conference held at the University of Richmond on Wednesday, April 29, 2009. Members were briefed on the schedule and asked to consider an invitation list.

Themes and Signature Conferences 2010 - 2015: The Executive Committee discussed the future schedule for annual conferences, as well as the establishment of themes highlighting a wide range of subjects throughout the commemoration. After a discussion on the merits of providing a full array of programs that includes homefront, social and cultural themes as well as battlefield and military themes, Dr. Bryan moved, and Del. A. T. Howell seconded, adoption of the themes and conference schedule as presented. The motion was approved unanimously.

Harper's Ferry event: Staff continue to work with representatives of the West Virginia legislature and Harper's Ferry National Historical Park to plan a joint-state event that will serve as the national kickoff of the sesquicentennial. The event is scheduled for June 25, 2009.

Document Digitization pilot program: The Library of Virginia is working with the Danville and Washington County sesquicentennial committees to conduct a pilot of the document scanning project. The pilot will be held on November 22 at the Institute for Advanced Learning and Research in Danville.

WORKGROUP 3 - EDUCATION

Brenda Edwards briefed the Commission on the progress of Workgroup 3, which is chaired by Delegate Algie Howell and is charged with oversight of the education component of the commemoration. The workgroup has formed an Ad Hoc Subcommittee, chaired by Sen. Locke, to review the various methodologies for teaching American Civil War history, address the hard and controversial issues of the Civil War and its legacy that teachers may encounter in the classroom and options for dealing with controversies in the classroom, review the "message" of various sesquicentennial initiatives, and recommend alternatives to resolve concerns. Dr. Stephen Rockenback outlined academic approaches to teaching Civil War history, which include narrative, thematic, and community history approaches.

The Workgroup supports the idea of a one-stop, comprehensive resource for educators, and to that end, is developing a Compendium on the Sesquicentennial of the American Civil War for Educators. The workgroup is also recommending two Law School Symposia. The first would be a moot court held in 2011, highlighting legal issues surrounding the separation of West Virginia and Virginia. The second is scheduled for 2013, in conjunction with the 150th anniversary of the Emancipation Proclamation, to examine the historical, political, social, and legal context of the 13th, 14th and 15th amendments to the United States Constitution, the import of these Amendments on the rule of law, and their legacy in modern times.

Other Business

Speaker Howell recognized Dr. Charles F. Bryan, Jr. on his retirement from the Virginia Historical Society, thanked him for his vision on the sesquicentennial and his service to the Commission,

and presented him with a gift. Dr. Paul A. Levensgood will succeed Dr. Bryan.

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

SPEAKER WILLIAM J. HOWELL, CHAIR

Cheryl Jackson, Brenda Edwards,
and Danielle Watkins, DLS Staff

Telephone (804) 786-3591

<http://dls.virginia.gov/civilwar.htm>

<http://www.virginiacivilwar.org>

Virginia Commission on Energy and Environment 11-19-08

Senator Whipple called to order the fourth meeting of the Commission on Energy and Environment. After brief introductions, the Commission began with the first speaker on the agenda.

Arlen Bolstad, State Corporation Commission

Arlen Bolstad provided the Commission with an overview of the report by the State Corporation Commission ("SCC") on the feasibility of a 10 percent reduction in electric energy consumption by 2022. The SCC received input from 180 people and adopted five self-directed subgroups: general issues; conservation and energy efficiency; demand response; financial considerations; and consumer education. SCC staff concluded that the 10 percent goal was indeed achievable and noted the potential programs set forth in the Virginia Energy Plan as a manner of achieving that goal. The SCC specifically asked for policy guidance in four key areas:

- To what, if any, extent should regulated retail electric prices in Virginia be used as a means to promote cost-effective conservation of energy through fair and effective demand side management, conservation, energy efficiency, and load management programs?
- Will participants pay for their own energy efficiency measures out of anticipated electric bill savings or will energy efficiency measures be funded out of a pot of money collected from the general body of ratepayers?
- Apart from pure peak reduction programs that must be administered by the system operator, will energy efficiency

programs be administered by electric utilities, government agencies, commercial organizations, other types of third parties, or some combination of the entities listed here?

- To what, if any, extent should the Commission incorporate quantified environmental externalities—or any other externalities—into the regulatory process? (Mr. Bolstad noted that the real cost impact of environmental externalities has gained special importance recently and cannot be cast aside in light of public awareness of global warming and the possibility of greenhouse gas regulation.)

The sole recommendation of the SCC report was that electric utilities provide information and data to determine the "cost-effectiveness" of demand-side management programs. Since the publication of the report in 2007, the SCC has been involved with applications for several pilot programs managed by the utilities; renewable energy portfolio standards; the development of a consumer education plan; and integrated resource planning.

Senator Petersen asked about the efficiency goal of a 10% reduction in electricity consumption and whether the measurement of this goal was clear. Mr. Bolstad responded that there was confusion as to how the goal accounted for growth of population and that more clarity would be helpful. Hugh Montgomery, who was also a member of one of the workgroups contributing to the SCC report, voiced his concern that electricity rates are not structured in a way to encourage conservation. Senator Whipple asked for an update on the progress of the development of a consumer education plan. Mr. Bolstad responded that the plan borrows heavily from the fifth subgroup created for the production of the report. Mr. Wallmeyer asked about the declining rate structures currently used and whether other models had been attempted. The SCC has asked utilities to examine rate design infrastructure and the inclusion of more intelligent price signals.

Neal Elliott, ACEEE

Neal Elliot presented the Commission with the American Council for an Energy-Efficient Economy (ACEEE) report "Energizing Virginia: Efficiency First." After reviewing the process used to develop the report, he stressed that states should view electricity efficiency and conservation as the least-cost resource to meet our growing energy demands. Mr. Elliott also stressed the distinction between conservation and efficiency. Efficiency is a resource that can be purchased, for example by obtaining more modern appliances or weather-stripping. Conservation is a reflection of changed behavior to

avoid the consumption of energy. The ACEEE report found that the Commonwealth could actually achieve a 19% energy reduction, equivalent to 28000GWh, and examined how that reduction could be achieved among sectors of the economy through various technological and regulatory policies. Mr. Elliott reinforced that electricity rates are rising now and will continue to rise in the future. The effect of aggressive conservation and efficiency program would simply be decline in the rate of increase. Another important benefit of an aggressive conservation and efficiency program would be the creation of jobs over the long-term, whereas expanded generation primarily creates jobs during the short-term construction phase.

Delegate Sickles asked whether there was a conflict between electric efficiency and conservation programs and renewable portfolio standards. Mr. Elliott responded that there was no conflict, especially when efficiency planning enters into the scenario to ensure renewable energy is affordable. For example, when energy needs are reduced, the savings can be invested in the implementation of renewable energy. This happens often when designing a building. Senator Stuart asked about opportunities for cogeneration and the regulatory obstacles that might exist for cogeneration. Mr. Elliott explained that combined heat and power ("CHP") has historically been regulated by its multiple outputs—air emissions as a generator and as a public utility for the distribution of electricity. The more modern view would be to treat CHP according to its inputs, since it produces two types of energy, electric and thermal, with the same fuel. If CHP could be regulated on its single input rather than its multiple outputs, the administrative penalty could be lessened.

Dr. Hatcher asked about the calculation used to determine additional energy efficiency jobs and whether it reflected the avoided jobs from a dampened need to expand the energy generation sector. Mr. Elliott replied that this was taken into account.

Jack Reasor, ODEC

Jack Reasor began by noting that Old Dominion Electric Cooperative (ODEC) has been working on this issue for more than 25 years and that the organization is unique because 95 percent of its users are residential. Delegate Nixon asked about market driven conservation efforts and whether Mr. Reasor agreed with rate design issues need to be addressed, perhaps according to a decoupling model like that implemented by the General Assembly for natural gas. Mr. Reasor responded that decoupling may not

be the favored approach by industry and that what was meant by decoupling should be carefully examined. Mr. Reasor then referred to a pending rate case where base rates are increased to cover fixed costs; the quantity of usage is then passed through to the user.

David Green, Dominion Resources

David Green reviewed the numerous innovative pilot programs being explored by Dominion. Dr. Hatcher asked about the susceptibility of smart meters to lightning strikes. Mr. Green responded that 1/3 of meters already in use are solid state meters similar to that in smart meters and that no problems have been reported.

Delegate Poindexter asked about the interface of the smart meter. Mr. Green responded that the meter can interact generally with the thermostat or specifically to separate appliances—various technologies are being explored in the pilot programs. Mr. Wallmeyer asked if information from the pilot programs would be available soon enough to impact the upcoming round of integrated resource planning. Mr. Green noted that Dominion would file its IRP within 90 days. Senator Whipple inquired about the time frame to deploy advanced meter infrastructure. Mr. Green responded that it would be phased in over time. Already tests are being done on two circuits in the Richmond area. The next step would be full test at another office such as Charlottesville. Senator Petersen asked if there are any auditors reviewed the success of the pilot programs. Green commented that Dominion has internal auditors and employs consultants, but that there were no external auditors specifically used to do so.

Ron Jefferson, AEP Appalachian Power

Ron Jefferson discussed the numerous approaches AEP Appalachian Power takes to helping customers conserve electricity and demonstrated the tools on AEP's website to allow customers to calculate energy savings in their home.

Mr. Wallmeyer asked if AEP would be able to meet the current efficiency goal in the Commonwealth to reduce consumption by 10%. Mr. Jefferson responded that he was confident that AEP would be able to meet this goal through various programs. Senator Whipple asked how AEP had achieved such penetration with compact fluorescents for lighting. Mr. Jefferson said that consumers were educated by product packaging, media, invoice inserts, and other utility promotions.

Bill Carden, Potomac Supply Corporation

Senator Stuart introduced his constituent Bill Carden, the president of Potomac Supply Corporation. Mr. Carden provided an engaging review of the importance of forestry and lumber products industries

to Virginia. Although these industries are experiencing economic difficulties, there is an untapped potential to adapt wood products for use as energy feedstocks.

Public Comment

Senator Stuart made a motion to allow public comment prior to the Commission's discussion of other business.

Sara Rispin spoke on behalf of the Southern Environmental Law Center in support of the ACEEE report and emphasized that efficiency is the best way to meet growing energy needs. Ms. Rispin also lauded the work of the Governor's Commission on Climate Change and its recent endorsement of 101 recommendations, many of them related to the mitigation of energy demands. Mr. Glen Besa spoke on behalf of the Sierra Club and asked that the Commission carefully look at all options and incentivizing Virginians and utilities to make the right choices for the environment. Mr. Tom Cormons spoke on behalf of Appalachian Voices and sounded his groups favor of looking to energy efficiency as a resource to avoid building new generation and consuming more coal, both of which contribute to destructive environmental externalities. Ms. Ivy Main spoke on renewable energy options for the Sierra Club. She noted that coal can no longer be viewed as the low cost fuel option in light of strengthening prices. She asked that a new scenario be adopted to fully acknowledge the potential of offshore wind to produce electricity.

Member Discussion

Senator Petersen discussed the importance of biofuels and urged that the General Assembly locate dedicated funding to catalyze the progression of second generation cellulosic biofuels. Senator Whipple noted that we could strengthen the market for biofuels by requiring that diesel fuel sold in the Commonwealth include two percent biodiesel by volume. Any legislation should include a delayed effective date. Mr. Montgomery expressed concern that legislation should not be too specific but should support policy of including any of a number of synthetic fuels.

Delegate Poindexter noted the importance of using forest debris for a renewable energy feedstock. Mr. Walz commented that a significant obstacle to using forest debris is the infrastructure needed to transport the feedstock from its source to a point for processing.

Dr. Schulz discussed her constituent's desire for support of solar energy through a feed in tariff and the establishment of a solar center at a major university. The Governor's office is already considering feed in tariffs and a solar center at DMME has been in place for many years without funding.

The Commission reviewed correspondence from the Fairfax County Board of Supervisors requesting tax credits for residential solar installation and from the Virginia Trucking Association recommending a number of anti-idling provisions. Several of these recommendations are also already being discussed by the administration.

Senator Petersen said he would like to introduce legislation to rewrite the current goal of reducing electric consumption by 10 percent.

The Commission discussed the role of energy audits and energy managers in state government. The Governor has adopted an aggressive plan to reduce energy use by state agencies by executive order.

Recommendations

Senator Whipple gave final remarks and summarized the recommendations of the Commission as follows:

- Identify dedicated funding for biofuels production.
- Require that diesel fuel include a minimum of two percent synthetic fuel.
- Clarify the existing goal to reduce electricity consumption by 10 percent by 2022.

Next Meeting

The next meeting of the Energy and Environment Commission will be posted on the DLS website when information is available.

Commission on
Energy and Environment

SENATOR MARY MARGARET WHIPPLE, CHAIR

Ellen Porter, DLS Staff

910 Capitol Street

General Assembly Building, 2nd Floor

Telephone (804) 786-3591

<http://dls.virginia.gov/energy.htm>

Virginia Freedom of Information Advisory Council *12-1-2008*

The Freedom of Information Advisory Council (the Council) held its final meeting of 2008 in Richmond.

Subcommittee Reports

Personal Identifying Information Subcommittee: The PII Subcommittee, with the concurrence of the JCOTS SSN Subcommittee, recommended to the Council the following legislative proposals:

- Amendments to the Government Data Collection and Dissemination Practices Act (GDCDPA): Clarification that the recently enacted prohibition on collection of social security numbers without authorization would apply to the collection of all or any portion of a social security number; and extension of the implementation date of the prohibition to July 1, 2010. Currently, the prohibitions are set to become effective on July 1, 2009. However, due to the response from the social security number surveys and the immense amount of data to process and verify, it was recommended that an additional year might be necessary to thoroughly review and process all of the implementation issues.
- Concealed Handgun Permits: The PII Subcommittee voted again to recommend SB 529 as introduced in 2008 because of its belief that it reflects the proper balance between privacy and public access. The draft legislation would require the Department of State Police (DSP) to withhold from public disclosure permittee information submitted to the DSP for purposes of entry into the Virginia Criminal Information Network, with a limited exception for access by law-enforcement agencies. Records of the names and addresses of holders of concealed weapons permits issued by the DSP to out-of-state persons would be publicly available from DSP. Permittee records will still be open to the public at each circuit court where the permits are issued.
- Protection of Social Security Numbers in Public Records: HB 1096 would prohibit the release of social security numbers on public records, but would allow the last four digits to be released for purposes of identity verification to certain entities, such as the press, private investigators, and data aggregators. Questions were raised about allowing the last four digits to be released to the press, private investigators, and data aggregators for verification purposes, and not to the general public. This provision raised questions about the definition of a news-gathering organization as the proliferation of electronic media makes it difficult to determine. The joint subcommittees recommended reintroduction of HB 1096, but would allow anyone to receive the last four digits of a social security number for verification purposes.

Staff presented three approaches to protect the disclosure of SSNs, including the PII Subcommittee recommendation. The reason for differing approaches came as a result of questions raised during the drafting of the PII Subcommittee recommendation. First, protection of

SSNs should be a separate statute and not a part of FOIA so as not to harm the underlying policy of FOIA as noted above. Secondly, entire SSNs should be treated as confidential and their release prohibited except under limited circumstances, including to law-enforcement and criminal justice agencies or pursuant to proper judicial order. The joint subcommittees voted to table further consideration of HB 1102 that would create a FOIA exemption for social security numbers.

Electronic Meetings Subcommittee: Chair Craig Fifer, reported that the subcommittee unanimously recommends draft legislation that would allow the Air Board and the Water Board to meet by electronic means provided the meeting is held in compliance with the provisions of the FOIA, specifically § 2.2-3708, except that a quorum of the respective Boards would not be required to be physically assembled at one primary or central meeting location. The draft legislation also required that discussions of the respective Boards held via such electronic communication means must be specifically limited to those matters for which the meeting was called, and no other matter of public business shall be discussed or transacted by the respective Boards.

Database Index Subcommittee: Chair Frosty Landon reported that the subcommittee met to consider the database index requirement set forth in subsection J of § 2.2-3704, and as a related matter, the statement of rights and responsibilities required under § 2.2-3704.1. The Subcommittee voted unanimously to recommend a draft that would repeal the database index requirement as it found that agencies were not complying with the requirement and the public was not inquiring about the indices. The draft would also amend the required rights and responsibilities statement to require agencies to provide a general description, summary, list, or index of the types of records it has and exemptions that may apply to those records. The new requirements would help to increase public oversight without trying to define the term "database." The new provisions could also be used by agencies to help coordinate disclosure with the required retention schedules under the Virginia Public Records Act. Mr. Landon reported that while it may entail a little more work at first, the general reaction from state agencies was supportive.

Meeting Minutes Subcommittee: Staff reported that the subcommittee recommended draft legislation that would require explicitly that meeting minutes be in writing. The recommendation is declaratory of existing law, and makes technical changes.

Action on Subcommittee Reports

- **Personal Identifying Information Subcommittee:** The Council voted unanimously to adopt the PII Subcommittee recommendations to amend the GDCDPA. With respect to the protection of SSNs, the Council voted to defer action on this issue because none of the approaches appeared to strike the proper balance.

- **Electronic Meetings Subcommittee:** The Council voted unanimously to adopt the EMeetings Subcommittee recommendation.
- **Database Index Subcommittee:** The Council voted unanimously to adopt the Database Index Subcommittee recommendation.
- **Meeting Minutes Subcommittee:** The Council had previously voted unanimously to approve the recommendation of the Subcommittee.

The Council will include draft legislation on above as part of the its legislative recommendations to the 2009 Session of the General Assembly.

Legislative Preview (Part II)

Delegate Griffith reminded the Council that Part I of the annual legislative preview was held at the October 6, 2008 meeting where the Council heard from the Virginia Economic Development Partnership Authority and the Virginia Municipal League. Delegate Griffith also reminded the Council that the purpose of the legislative preview was not to take action on any particular proposal, but instead to bring the issues to light so that resolution of them might be achieved before Session.

William Watt, Policy and Planning Specialist, Department of the Treasury, advised the Council of the need for a FOIA exemption for the Commonwealth's agency risk management and internal control standards assessments. Mr. Watt explained that the proposal is a result of the Comptroller's directive to implement an annual assessment of agency internal control systems in order to provide reasonable assurances of the integrity of all fiscal processes related to the submission of transactions to the Commonwealth's general ledger and stewardship over the Commonwealth's assets. The concern was that if internal controls were known, they could be defeated at the risk of the Commonwealth's assets.

The Council then heard from Sandy McNinch of the Virginia Economic Development Authority (VEDP) concerning expansion of the current record exemption for economic development to include certain business retention information. Ms. McNinch reported that there was agreement that business retention information should be protected; however, there was disagreement on how to accomplish it. She advised that VEDP prefers the draft option that does not require the "earmarking" of proprietary documents upon submission as it is impracticable in the fast paced economic development setting. Craig Merritt, representing VPA, reported that VPA favored the earmarking provision and suggested that to address VEDP's concerns that earmarking would slow down the economic development process VEDP would not be required to make a written determination of which

records would be protected. VEDP responded that this suggestion did not change their position. All parties agreed to continue to work to find a compromise.

James G. Council on behalf of the Prince William County School Board discussed with the Council the School Board proposed legislation to exempt from FOIA records relating to the school system's electronic visitor identification system. He explained that the system was capable of taking government identification and scanning it into a database which captures name, address, SSN, date of birth, and other personal information. He stated that the system was beneficial to the schools because they could cross check this information with sexual predator registries, for example. Craig Merritt, representing VPA, advised the Council that FOIA already covered protection of security systems and that the collection of other personal information was not essential to the school security mission. He suggested that this issue be given to the PII Subcommittee for further examination.

The Council then heard from Mark Flynn of the Virginia Municipal League (VML) concerning the expansion of the exemption for complainant information related to zoning violations found at subdivision 10 of § 2.2-3705.3 to also provide protection for individual building code and fire prevention code complaints. He noted that there had been some compromise with the VPA. Craig Merritt on behalf of VPA explained that the compromise made the proposal better, but not good. VPA opposes the exemption on the basis that there should be no anonymous "snitching" on neighbors.

Other Business

Mr. Fifer proposed that the FOIA rights and responsibilities statement currently required for state public bodies under § 2.2-3704.1 be expanded to apply to local public bodies. Mr. Fifer requested the Council to take action on his proposal. After public comment that this issue had not been vetted, the Council by consensus agreed to appoint a subcommittee to work on this issue in 2009. Staff distributed the executive summary for the Council's 2008 annual report to the Governor and the General Assembly, and requested that any revisions be submitted in a timely fashion.



*Virginia Freedom of Information
Advisory Council*

DELEGATE MORGAN GRIFFITH, CHAIR

Maria J.K. Everett, Executive Director

910 Capitol Street

General Assembly Building, 2nd Floor

Telephone (804) 225-3056

<http://dls.virginia.gov/foiacouncil.htm>

SMALL BUSINESS COMMISSION 12-0-08

Overview

The Small Business Commission held its final meeting prior to the 2009 Session in Richmond on December 9, 2008, with co-chairmen, Delegate Jeffrey M. Frederick and Senator W. Roscoe Reynolds presiding.

Presentations

HOUSE BILL 352

House Bill 352: Motor carriers; liability insurance for buses with capacity of no more than 40 passengers was passed by in the House Committee on Transportation during the 2008 Session of the General Assembly and the bill was forwarded by letter to the Commission for further study. The bill was first considered by the Commission at its August 12th meeting, where the Commission asked Delegate Mark L. Cole to meet with the relevant stakeholders and prepare a new proposal to be revisited at a future meeting.

Delegate Cole has filed a similar bill, House Bill 1627, for the 2009 Session. The bill would still allow sightseeing trolleys to maintain liability insurance on buses in the amount of \$1,500,000, instead of the \$5,000,000 currently required by the Code of Virginia. House Bill 1627 also features a revised definition of the term "trolley."

The Commission also heard from Robert Bradshaw, who represents the Independent Insurance Agents of Virginia, and Dennis Gallagher, who represents the Virginia Taxicab Association, both of whom opposed the bill.

The Commission expressed concerns regarding the potential impact of lowering the amount of liability insurance on trolleys and declined to take any action on the bill.

ACTION ON SECTION 125 PLANS

Stephen W. Bowman, Senior Staff Attorney for the Joint Commission on Health Care (JCHC) made a presentation on Section 125 plans. Mr. Bowman explained that Section 125 of the Internal Revenue Code enables employees to purchase health insurance policies with pre-tax dollars. Mr. Bowman reported that the JCHC considered several policy options for dealing with Section 125 plans and endorsed three: (i) requesting that the Department of Human Resources Management, in conjunction with the Department of Business Assistance, create detailed documents highlighting Section 125 plans, posting a sample Section 125 plan form, and making these documents available to the business community, (ii) requesting that the Virginia Chamber of Commerce inform its membership about Section 125 plans, and (iii) requesting that the Virginia

section of the National Federation of Independent Businesses inform its membership about Section 125 plans.

MANDATED HEALTH INSURANCE BENEFITS

Senator George L. Barker, who is a member of both the Commission and the Special Advisory Commission on Mandated Health Insurance Benefits, updated the Commission on the work of the Special Advisory Commission. He noted that the Special Advisory Commission considered four mandates involving in vitro fertilization, hearing aids for children, amino acid based formulas, and autism services. Of the four, the Special Advisory Commission's only recommendation was for the autism services mandate. Senator Barker explained that he offered an amendment that would require that this mandate also apply to the state health insurance plan, but that this amendment was defeated.

Public Comment

Delegate Daniel W. Marshall, III, spoke to the Commission about limited benefit health insurance policies in the form of his bill from 2007, House Bill 3160. This bill would allow the sale of insurance policies that are not required to provide coverage for some or all of the mandated health insurance benefits contained in the Virginia Code. The bill limits the availability of such plans to small businesses that employ between two and 50 employees and that had not offered health insurance during the preceding six months would be eligible to purchase such policies. The Commission had voted at its last meeting to recommend the bill in concept.

Legislative Recommendations

The Commission voted to endorse House Bill 3160 and during the 2009 Session. The Commission also directed staff to prepare letters to the chairs of the relevant General Assembly committees informing them of the Commission's recommendations, including the Commission's recommendation adopted at its last meeting stating that no new insurance mandates should be enacted during the 2009 Session.

Small Business Commission

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

David Cotter, DLS Staff

Telephone (804) 786-3591

<http://dls.virginia.gov/business.htm>

REGULATORY ALERT

A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH

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

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

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

FORENSIC SCIENCE BOARD

6VAC40-60. DNA Data Bank Regulations (adding 6VAC40-60-10 through 6VAC40-60-80).

Written public comment may be submitted until 5 p.m. on January 23, 2009.

Summary:

The proposed regulations establish the procedures for law enforcement to obtain information from the DNA data bank and further establish who at the Department of Forensic Science has access to the DNA data bank. The regulations also detail the level of access for each Department of Forensic Science employee.

For further information, please contact Michele M. Gowdy, Department Counsel, Department of Forensic Science, Richmond, telephone (804) 786-6848, FAX (804) 786-6857, or email Michele.gowdy@dfs.virginia.gov.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

12VAC5-391. Regulations for the Licensure of Hospice (amending 12VAC5-391-10, 12VAC5-391-120, 12VAC5-391-150, 12VAC5-391-160, 12VAC5-391-180, 12VAC5-391-300, 12VAC5-391-440, 12VAC5-391-450, 12VAC5-391-460, 12VAC5-391-480, 12VAC5-391-500; adding 12VAC5-391-395, 12VAC5-391-445, 12VAC5-391-446, 12VAC5-391-485, 12VAC5-391-495, 12VAC5-391-510).

Written public comment may be submitted until 5 p.m. on January 23, 2009.

Summary:

Chapter 391 of the 2007 Acts of Assembly places oversight of hospice facilities with the Department of Health and establishes that continuity of hospice services provided in a patient's home also be provided in a dedicated facility.

This change in law necessitates amending the current regulation by expanding the standards addressing patient care and safety in hospice facilities. The proposed amendments also address omissions in the regulation when it was revised in 2005. The proposed amendments (i) clarify definitions pertaining to hospice facility and inpatient services; (ii) provide clarification between a hospice facility and inpatient services in a hospital or nursing facility; (iii) require notifying the Department of Health of the relocation

of a hospice facility; (iv) add provisions for handling medical errors and drug reactions; (v) require compliance with state and local codes, zoning and building ordinances and the Uniform Statewide Building Code; (vi) prohibit a hospice facility from being used for any purpose other than the provision of hospice services; (vii) require that a set of as-built plans be retained; (viii) establish additional physical plant requirements for operating a hospice facility; (ix) establish necessary hospice facility financial controls and requirements for handling patient funds; (x) require 24-hour nursing services including trained and supervised staff to meet the total needs of the hospice patients; (xi) allow facilities with six or fewer beds to have a single licensed nurse as long as patient needs are met; (xii) provide for a 20-minute response time if a registered nurse is not present at the facility; and (xiii) make changes to provide consistency with other facility-type regulations.

For further information, please contact Carrie Eddy, Department of Health, Richmond, telephone (804) 367-5100, or email carrie.eddy@vdh.virginia.gov.

Division of Legislative Services

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

E. M. Miller, Jr., Director
R.J. Austin, Manager, Special Projects
Lynda Waddill, Publication Editor
Lea Ann Robertson, Copy Editor

© 2008 Division of Legislative Services
Published in Richmond, Virginia
by the Division of Legislative Services,
an agency of the General Assembly of Virginia.

The Legislative Record is available online at-
<http://dls.virginia.gov/pubs/legisrec/2008/welcome.htm>

Division of Legislative Services
910 Capitol Street
General Assembly Bldg, 2nd Floor
Richmond, Virginia 23219

