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HJR 248: Joint Subcommittee Studying the Development and Enhancement of the Biosciences and Biotechnology

September 29, 2008

The joint subcommittee met in Richmond with Delegate Sickles as chair.

Presentations and Discussion

Robert Skunda, President of Virginia Biotechnology Research Park

Robert Skunda spoke on the capabilities of the Virginia Biotechnology Research Park. He stated that a modest state investment of \$10-\$15 million would be effective if used to attract companies in a multitenant facility.

Delegate Sickles asked Mr. Skunda if he had requested the Virginia Biotechnology Research Park to be included in the last state bond package. Mr. Skunda responded that the most recent bond package was dedicated to higher education and the Research Park was not included.

Mark Herzog, Virginia Biotechnology Association, offered a letter to the joint subcommittee that was written by a small biotech company to the Secretary of Commerce and Trade, Patrick Gottschalk. The letter informed Secretary Gottschalk that the company moved to Maryland due to insufficient wet lab space in the Commonwealth to accommodate its needs. Mr. Herzog used the letter to highlight the immediate need for more wet lab space to foster growing biotechnology companies.

Senator Herring asked Mr. Skunda if the Biotech Research Park would have been successful without state investment. Mr. Skunda responded that the state funding was necessary to attract private investment, even though the state contribution totaled only \$8 million over 12 years.

Delegate Sickles asked Mr. Skunda what steps need to be taken to continue advancing the biotechnology industry in the Commonwealth. Mr. Skunda responded that an investment of \$10-\$15 million would be necessary, mainly to attract private and public partners and additional capital.

Peter Jobse, Center for Innovative Technology, agreed that the Commonwealth could be doing more to finance biotechnology projects similar to that of the Research Park, but he noted that research and commercialization parks work best when focused on a specific area of science.

No public comment was received. Delegate Sickles stated he would like to consider the possibility of a \$10-\$15 million state investment to develop an additional incubator (multitenant) facility in the Commonwealth that would include wet lab space. *Mr. Skunda's entire presentation is available on the joint subcommittee's website.*

Aneesh P. Chopra, Secretary of Technology of the Commonwealth

Secretary Chopra reviewed current biotechnology programs in the Commonwealth. At the request of Delegate Sickles, Secretary Chopra explained in detail the key features of the UVA/VT and Rolls Royce partnership agreement. Secretary Chopra stated that a major component of the partnership was the agreement that Rolls Royce would retain a majority of the intellectual property rights developed by the partnership. Secretary Chopra concluded by stating that although the Commonwealth has made some significant investments in the biotechnology sector, a lack of coordinating, managing, and reporting among both the universities and the private sector when

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Regulatory Alert

For more information, visit study websites.

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

The state contribution to the Virginia Biotech Research Park has been \$8 million over the past 12 years.

compared to the recent UVA/VT and Rolls Royce partnership still exists. Secretary Chopra stressed the need for the Commonwealth to bring together universities to compete with larger and more centralized university systems in other states.

Senator McDougle asked if appropriations to universities are required to be used for commercialization. Currently, only \$1 million of state appropriations are dedicated to commercialization through the Commonwealth Technology Research Fund (CTRF). Mr. Jobse noted that there is a high value in basic research that is needed to develop more advanced research and used to teach students. Additionally, the majority of funds used for basic research come from federal grant opportunities. Senator McDougle proposed that all state money designated for research be tied to commercialization. Delegate Sickles noted that targeting state funds on commercialization would be a good opportunity to market the Commonwealth as a place to do biotechnology-related business.

Delegate O'Bannon stated his support for increased data collection on university intellectual property transfer as well as working to establish more economic development packages similar to that of UVA/VT and Rolls Royce. Dr. Hewlett, citizen member of the joint subcommittee, advised that tech transfer offices at most universities are not self-sufficient, and if they are, they often lack the resources to take advantage of all possible opportunities. Secretary Chopra identified UC Berkeley as a leader in tech transfer. *Secretary Chopra's entire presentation is available on the joint subcommittee's website.*

Recommendations

Staff reviewed the subordinated debt and equity tax credit, noting that approximately \$10 million in requests have been made over the last fiscal year. Staff also noted that it appears businesses such as restaurants qualify for the credit, which may not have been the original intent of the legislation.

Mr. Jobse stated that tax credits are helpful, but they have a tendency to help compensate investors for losses, and are not effective in attracting investment in more promising technologies. The general consensus of the joint subcommittee was that angel investors look for investments that have the greatest potential for financial return and the availability of tax credits is not the most effective incentive. Mr. Jobse stated that using state dollars as a match to private dollars is the most beneficial and that the

Commonwealth needs to target companies that are classified as high-expectation companies. Mr. Jobse highlighted the CIT GAP Fund as an example, which is currently returning over \$10 for every \$1 of state investment.

Delegate Sickles led a group discussion that generated several recommendations that staff will have prepared in draft form for the next meeting.

The first recommendation would be a draft that would narrow the scope of the subordinated debt and equity tax credit. One potential draft will change the qualification requirement to an inclusive list of business and innovative high-tech companies, rather than an exclusive list. One option in the draft will be a requirement that a business applying for the credit be a spin-off from a Virginia university. One potential draft will change the tax credit to an investment fund with similar requirements. Mr. Herzog recommended looking specifically at the Maryland tax credit system, which has been enormously popular and effective.

Another recommendation would be a draft that would require the CTRF funds go to the three research priorities of the state as identified by the Virginia Research and Technology Advisory Commission (VRTAC) and require that grants be awarded only to a multiple universities that form partnerships with private companies. The current language in the Code of Virginia only requires one university to partner with a private company. The draft would clarify that the CTRF would focus exclusively on commercialization. One option is to prepare a Section One bill of limited duration to accomplish the goal of this recommendation.

A general recommendation was made that the Commonwealth promote biotech grants and funds. One idea was to have a biosciences press desk to reach out-of-state press organizations. Another possible idea was to coordinate the press offices and tech transfer offices of all Virginia universities. VRTAC recently created a similar framework for the Nano-Users Network. Mr. Jobse wanted to see the network highlight companies established and developed from university research.

The final recommendation designated a more significant portion of the Commonwealth Research Initiative (CRI) funding to translational research that has commercialization potential. A competitive process could be managed by a board that would develop parameters for the exact type of research that would qualify. This recommendation could be phased-in to allow universities to adjust research priorities.

After discussing the formal recommendations listed above, Mr. Skunda suggested that the joint subcommittee advance specific long-term

recommendations regardless of the budget condition. Mr. Skunda reiterated the need for access to start-up capital and the need to add wet lab and incubator space for biotechnology companies in the Commonwealth. Delegate Sickles suggested a lease guarantee program. One option staff will research is the availability of loans through the Virginia Resource Authority for a shell building and wet lab space.

Next Meeting

The next meeting will be held in conjunction with the Mid Atlantic Biotech Conference in Chantilly, Virginia.

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

September 30, 2008

Delegate Cosgrove, chair, welcomed members to the second meeting of the 2008 interim. Staff briefly reviewed follow-up materials that are available on the joint subcommittee's website.

Presentations

Dr. Mary Kasarda and Dr. Brenda Brand, Virginia Tech

Dr. Kasarda gave information on pre-engineering, the STEM workforce, and Virginia Tech's online courses for teachers. Dr. Kasarda proposed that the Commonwealth require at least one pre-engineering course in the preK-12 curriculum. Massachusetts is currently the only state with a similar requirement. To prepare teachers for this type of requirement, Dr. Kasarda and Dr. Brand have developed two online, in-service teachers training classes to better prepare teachers to teach engineering concepts in the classroom.

Dr. Brand discussed the difficulty in attracting underrepresented populations to the STEM fields in the preK-12 system. One successful program highlighted by Dr. Brand was a high school elective class built around and integrated with the FIRST Robotics program.

Building from this model, Dr. Kasarda and Dr. Brand propose developing two online courses with participation from engineering and education faculty, including graduate students, from Virginia Tech, Norfolk State University, and James Madison University. The first two classes developed will be targeted at in-service teacher training

and will focus on how to teach pre-engineering content. The goal of the classes will be to engage and train teachers on STEM content and engineering principles. The price to teachers to take one of the proposed classes online will be \$800. A key component of the classes will be participation from major engineering corporations, which have already offered employees to assist in teaching and developing content. The goal of these classes is to prepare teachers for the eventual prospect of requiring at least one pre-engineering course in the preK-12 system. Dr. Kasarda and Dr. Brand have completed a significant amount of preliminary work and are now looking for funding to develop the full content for the two classes.

Delegate Cosgrove asked how much it would cost to implement the program. Dr. Kasarda responded that they are looking for \$700,000 from the General Assembly. Dr. Kasarda and Dr. Brand are currently pursuing private and federal funding and would appreciate any amount of funding from the General Assembly to help stimulate federal and private contributions.

Delegate Toscano recommended that once funding is secured, Dr. Kasarda and Dr. Brand track the outcomes from this program and its success in training teachers and ultimately improving student performance and interest in the STEM fields. If successful, hard data would be helpful when approaching the General Assembly for funding in the future.

Delegate Nutter pointed out that teacher preparation has been a main focus of this committee and he would like to see support for this program in the list of final recommendations of the joint subcommittee.

Massachusetts is the only state that requires a pre-engineering course in the preK-12 curriculum.

About 200 schools in the Commonwealth have a designated math specialist.

Delegate Saxman stated that he would like some additional financial details of this program. Dr. Kasarda reassured Delegate Saxman that after the initial investment this program would be self-sustaining and all future funding would be generated from tuition payments.

Dr. Robert Pianta and Jim Wyckoff, Curry School of Education, UVA

Dr. Pianta and Jim Wyckoff stated that the Commonwealth needs to work towards attracting excellent teachers in hard-to-staff schools, provide opportunities for teachers to become excellent teachers, and retain the very best teachers in traditionally hard-to-staff schools. Using information from the New York City K-12 education system, Dr. Pianta and Dr. Wyckoff presented their research on why changes to the New York City K-12 system generated such a positive outcome on STEM performance in public schools. Between 2000 and 2005 teachers' achievement in the poorest schools increased to the point where they were even or above the achievement of teachers in more wealthy districts. During that time, NYC made a policy shift and mandated that all teachers be certified. The result was an increase in alternative teacher licensure pathways pursued by teachers to meet the mandate. The main conclusion presented by Dr. Pianta and Dr. Wyckoff was that recruiting more teachers with strong qualifications could substantially improve student achievement.

Delegate Toscano asked Dr. Pianta how the Commonwealth could take the lessons learned in New York City and apply those in Virginia. Dr. Pianta stated that data collection is essential. For example, in the Commonwealth there is poor data on the effect of preK education, we have no way of tracking the progress of students exposed to preK education. Delegate Toscano followed with a question asking if UVA could help in providing the necessary data collection and management. Dr. Pianta and Dr. Wyckoff responded that they are currently working to improve data collection and analysis in the Commonwealth.

Christopher Swanson, Editorial Projects in Education Research Center

Dr. Swanson presented information from the Technology Counts 2008 report published by Editorial Projects in Education Research Center (EPE). Dr. Swanson stated that the Commonwealth is struggling with 4th grade math scores and the poverty gap in math and science test scores.

Delegate Cosgrove asked Dr. Swanson why CA, TX, and MA score so low in the overall state grade for technology. Dr. Swanson stated that many of these states have a high-tech economy but lack the

same level of focus in their education system. These states also tend to import a large percentage of its high-tech workforce.

Another statistic highlighted by Dr. Swanson was that teachers in Virginia earn 83 cents on the dollar compared to careers with similar pay scales, which is below the national average.

Delegate Nutter asked if the Commonwealth should require more math classes or whether the current classes need to be more focused and structured. Dr. Swanson responded that the U.S. curriculum is an inch deep and a mile wide. The problem is not necessarily a lack of time spent on math and science education, but rather the depth of the curriculum taught to students. For example, countries like Japan, which have leading scores in the STEM fields, have a narrower STEM curriculum as compared to the U.S. education system. However, students in Japan are taught more advanced principles and critical thinking within the narrower band of topics.

Colleen Hahn, Equal Footing Foundation

Colleen Hahn provided a presentation highlighting the Computer Clubhouses established by the Equal Footing Foundation, the charitable arm of the Northern Virginia Technology Council. Computer Clubhouse offer children ages 8-18 an opportunity to receive exposure to STEM disciplines after school through the use of hands-on projects and competitions. The cost to establish a clubhouse varies but operating costs are roughly \$30,000 per year for all programs. The cost to establish and operate a clubhouse is kept low by cross-purposing community centers.

Delegate Saxman asked if the foundation targeted a specific demographic. Mrs. Hahn responded that each computer clubhouse tries to cater to the demographic of the area. Although one of the main goals is to target low-income and disadvantaged students, the centers are open to all students.

Delegate Cosgrove asked if the foundation tracks students progress outside of the computer clubhouses. Mrs. Hahn responded that for the past three years the foundation has been working to collect that type of information. Mrs. Hahn also explained the membership system and the requirements and incentives that keep students interested in attending the clubhouses.

Ms. Hahn concluded her presentation by stating that over 20 private companies help support the computer clubhouses directly, while the majority of funding comes from the NVTC member companies as a group.

Delegate Cosgrove expressed interest in expanding the computer clubhouse program to the Hampton Roads area and Ms. Hahn informed the committee that there is already an individual interested in expanding to Hampton Roads.

Speaker Pollard and Dr. William Haver, VCU

Speaker Pollard provided an update on the math specialist program and informed the committee that 150 teachers have received master's degrees to be qualified as a math specialist and about 200 are currently enrolled in the program. Currently about 200 schools in the Commonwealth, mostly in urban areas, have a designated math specialist.

Dr. Haver presented on some of the preliminary results of the math specialist program. In grades three through five students scored higher on math in schools with math specialists. Although the results are not statistically significant, Dr. Haver stated that qualitative feedback from teachers and students has been overwhelmingly positive.

The joint subcommittee requested staff to research preliminary estimates on the cost of implementing math specialists in all schools of the Commonwealth.

Public Comment

Cindy Jones, Virginia Children's Engineering Council, requested the opportunity to make a presentation at the next meeting.

Next Meeting

Delegate Cosgrove requested staff to compile a list of recommendations for the members to review at the next meeting. In addition to the presentation by Mrs. Jones, Delegate Cosgrove requested a presentation from UVA on its Produced in Virginia program, which is a partnership between UVA and the VCCS that provides certain community college students the opportunity to continue their engineering education at UVA upon successfully completing an associate's degree in engineering.

The next meeting of the joint subcommittee will take place at one of the Equal Footing Foundation's Computer Clubhouse's in Northern Virginia.

K&R 90

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

Delegate John Cosgrove, Chair

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

September 30, 2008

The joint subcommittee held its second meeting in Richmond. Co-chair Walter Stosch welcomed everyone.

Presentations

Staff provided and reviewed a list of the states that have adopted the single sales factor formula and the year of adoption, beginning with those prior to 2001 (Illinois, Iowa, Massachusetts, Missouri, Nebraska, and Texas) and ending with the 2009 tax year (Colorado). Twenty-three states have adopted the single sales factor formula for implementation immediately or over a set number of years.

Mark Haskins and John Josephs,
Department of Taxation

Mark Haskins provided the joint subcommittee members with a table showing a variety of tax incentives/benefits available to the manufacturing

industry. These benefits are found in sales and use tax exemptions, local tax preferences (machinery and tools tax, intangible personal property tax, tangible personal property tax, BPOL tax), and conformity with the federal Internal Revenue Code. Mr. Haskins also distributed a chart showing the corporate income tax revenue collections for 1997 through 2007. The outstanding feature was the volatility of the tax with a 35.7% decrease in revenues for 2001 and a 44.9% increase in 2005. Finally, the apportionment of income from sales of services and intangibles by the cost of performance formula was discussed by Mr. Haskins. In Virginia, the formula is a single factor based on costs of performance in the state over costs of performance everywhere the company sells services. Virginia's apportionment method for sales of services and intangibles seems to be the way the majority of states calculate sales.

John Josephs gave an in-depth look at Virginia's apportionment formula, which is currently in the mainstream with other states. Changing it to a mandatory single sales factor formula will increase the tax liability for some corporations, decrease it for

*Twenty-three
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others and have little, if any, impact for most. Corporations having significant operations in Virginia that produce more than they sell in the state would see their corporate income taxes reduced. However, corporations with minor operations in Virginia that sell more than they produce here would owe more corporate income taxes. Those corporations with mostly equal operations and sales in Virginia would experience very little change in their taxes. If the single sales factor formula is enacted in Virginia for all corporations, there would be a significant corporate income tax revenue loss, according to the Tax Department. Based on 2006 tax returns, if all corporations used the single sales factor, the estimated loss would equal \$47.4 million and if it were optional, it would rise to \$122.7 million. There would be 136 winners, 132 losers, and 29 with no change in taxes owed. If only manufacturers were allowed to use the single sales factor, the estimated loss would equal \$33.9 million and if it were optional, it would increase to \$64.7 million. In this case, there would be more losers (40) than winners (37) and only four would have no change in taxes owed, if manufacturers were required to use the single sales factor apportionment formula.

Michael Cassidy, Commonwealth Institute for Fiscal Analysis

Michael Cassidy labeled the single sales factor as "an economic development tool that isn't." His main points were:

- The single sales factor does not have a positive record as an effective economic development tool.
- The single sales factor is unfair tax policy for Virginia businesses with few or no out-of-state sales.
- The single sales factor is a no-strings-attached tax giveaway.
- Virginia already ranks at the top as a business-friendly state.
- If Virginia's manufacturers are paying less, residents will end up paying more.
- The real cost of the single sales factor is unclear.

The Commonwealth Institute for Fiscal Analysis is an independent, nonpartisan nonprofit that provides information and analyses of state public policies.

Rob McClintock, VEDP

Workforce development is the number one priority of Virginia Economic Development Partnership (VEDP), according to its Director of Research, Mr. Rob McClintock. However, it is

also important to keep businesses in Virginia and VEDP is always developing innovative methods to do that. When companies consider Virginia as a place to do business they consider several factors—workforce, markets, buildings and infrastructure, quality of life, and business climate. Virginia's business climate has been highly rated by a number of organizations including Forbes.com, CNBC, Pollina, and Tax Foundation.

In considering a tax policy change, such as the single sales factor, Mr. McClintock suggested a need for in-depth analysis of the change, do no harm, promote fairness, and improve the business climate. What will do the most good for the most businesses? All agreed that maintaining Virginia's competitive business environment is of utmost importance.

Emily Walker, Art Auerbach, Damon DeSue, and Teresa Jordan, VSCPA

The Virginia Society of Certified Public Accountants (VSCPA) strongly supported the legislation that created the joint subcommittee study to examine the single sales factor formula. The members recommended as part of the study methodology asking to whom should this apply; how would it be implemented; and what are additional changes that should be considered in this process.

As far as the single sales factor, VSCPA's position is neutral. The members think it is important to look at the impact of adopting the single sales factor and to be well-balanced in this examination. In examining economic development incentives, the impact on investment and on employment should be considered. As far as fiscal impacts on tax collections, net losses and gains need to be determined and the shift of tax collections from corporate to individual income tax, sales and use taxes and other taxes should be analyzed.

Other questions to consider are:

- Will the single sales factor formula apply to all industries or only targeted industries?
- Will it be phased in over several years or implemented immediately?
- Will its application be optional or mandatory?

Finally, it should be determined who are the winners and who are the losers before the single sales factor formula is enacted in order to make an informed decision. In conclusion, the VSCPA representatives offered their continued assistance with the study.

October 21, 2008

The joint subcommittee held its third meeting in Richmond. Co-chair Delegate Kathy Byron stated that it is her intention to study the possibility of the

Commonwealth adopting an optional single sales factor. A mandatory single sales factor will not be considered as it would result in some corporations paying less income tax and other corporations paying more income tax.

Presentations

Staff reviewed some major studies that analyzed the potential economic impact from adopting a single sales factor.

Austan Goolsbee, University of Chicago, and Edward L. Maydew, University of North Carolina

Professor Goolsbee completed a study in November 2000 of the economic impact of implementing a single sales factor in the state of New York. The study concluded that implementation of a single sales factor should increase the number of manufacturing jobs in New York by about 3.5 percent or 32,000 jobs and should increase non-manufacturing jobs by about 1.3 percent or 101,000 jobs. Personal income tax revenue from these new jobs was estimated at \$184 million to \$247 million per year. Any long-run increases in employment would occur gradually over a period of three years or more. These estimates were based on a statistical examination of the experiences of states that changed their apportionment formula for corporate income taxation during the 1980s and 1990s. Any decrease in corporate income tax revenues from adoption of a single sales factor would need to be weighed against the anticipated increase in personal income tax revenue. The study took into consideration other factors that can affect employment.

Kelly D. Edmiston, Georgia State University

Professor Edmiston analyzed the potential economic impact from implementing a single sales factor in Georgia. The study concluded that there would be a decline in Georgia corporate income tax revenues of \$101.7 million in 2004 growing to \$133.7 million in 2008. However, because a single sales factor apportionment formula eliminates that portion of the corporation income tax that is generated by a corporation's payroll and property, Professor Edmiston estimated that there would be a 6.9 percent increase in Georgia's multistate corporate payroll over a three-year period, which would level off at the end of the three years. The study projected that the increase in payroll paid by multistate corporations would increase Georgia's personal income tax collections by \$32.4 million to \$65.9 million in 2004 and by \$118 million to \$239.8 million in 2008. Thus, the increase in personal income tax collections would more than offset any decrease in corporation income tax revenues. The

study was based upon actual Georgia corporation income tax returns filed from 1992 through 2000.

Michael Mazerov, Center on Budget and Policy Priorities

Michael Mazerov studied manufacturing employment in the United States between 1995 and 2004. He concluded that every state except North Dakota suffered a loss in manufacturing jobs. During the 2001 - 2004 period, five of the eight states that adopted a single sales factor had manufacturing job losses worse than the median average loss (-8.2 percent in Louisiana) for the period. The manufacturing job loss in Connecticut was -9.6 percent; in Texas, -9.8 percent; in Illinois, -10.2 percent; in Maryland, -13.3 percent; and in Massachusetts, -14.8 percent. With regard to the remaining single sales factor states, Iowa (-3.0 percent), Missouri (-5.3 percent), and Nebraska (-7.0 percent) had manufacturing job losses that were better than the median. During the 1995 - 2004 period, the top three states (North Dakota, Kansas, and Utah) and seven of the top 15 states with manufacturing job losses that were better than the median used equally weighted payroll, property, and sales factors in apportioning the income of multistate corporations.

Mr. Mazerov also studied facility or plant investments made between 1995 and 2004. Citing data from *Site Selection Magazine*, he determined that 71 facility or plant investments of at least \$700 million were made during this period. Seven of the 10 single sales factor states did not land any of these investments after adoption of the single sales factor.

Mr. Mazerov concluded that the empirical evidence does not support the single sales factor as an effective incentive for job creation or job retention. The labor pool, transportation infrastructure, quality of education, and public safety have a greater impact than tax policy in attracting business investment, and reducing corporate income tax revenues could mean that less is spent on these items. He stated that even if a single sales factor attracts business investment, it would not be cost effective because reductions in corporate income taxes are not tied to job creation or capital investment.

Mr. Mazerov stated that the single sales factor apportionment formula does not reflect where corporations receive state services or where they earn income because it excludes the payroll and property factors that were endorsed under the Uniform Division of Income for Tax Purposes Act. Under an optional or election to use a single sales factor, there will be no additional corporate income tax paid by out-of-state multistate corporations to make up for any decrease in corporate income tax revenues. A single sales factor apportionment formula that can

A study by the Center on Budget and Policy Priorities showed that between 1995 and 2004, every state except North Dakota lost manufacturing jobs.

In 2007, manufacturing provided eight percent of total employment in Virginia.

be elected by manufacturers is estimated to decrease corporate income tax revenues by \$64.7 million annually, or 7.4 percent of 2007 corporate income tax revenues.

Mr. Mazerov stated that the single sales factor automatically reduces corporate income tax liability for corporations with a greater percentage of their sales outside of the Commonwealth, regardless of whether the corporation creates new jobs or makes a new capital investment. Under a single sales factor, corporations may reduce jobs and still receive tax savings. Mr. Mazerov testified that the fundamentals of business dictate where a business locates its operations. Using a single sales factor to influence location decisions is an inefficient use of state financial resources. Because Virginia does not have a throwback rule, sales to customers in states in which the corporation is not taxable will not be taxed by any state.

Mr. Mazerov advised that there is no correlation between the single sales factor and manufacturing jobs or capital investment. The vast majority of corporations are not taxable in other states and would not benefit from implementation of a single sales factor, therefore, there would be little incentive to invest. According to the Virginia Department of Taxation, two-thirds of all Virginia corporations are taxable only in Virginia.

Mr. Mazerov testified that combined state and local taxes are about two percent of a business' total expenses, with corporate income taxes accounting for less than 10 percent of this two percent total. Reducing this minor expense by implementing a single sales factor does not have a major impact on a corporation's profitability and will not have a major impact on location decisions. He stated that the absence of a single sales factor could be the tipping point in a business deciding not to invest in Virginia, but that the single sales factor is inefficient. Under California's dynamic revenue model, every \$1 billion decrease in corporate income tax revenue would recoup \$180 million in dynamic revenue gains after five years.

Mr. Mazerov stated that the Goolsbee/Maydew and Edmiston studies were predictions and not descriptive of actual results. Successive studies by Goolsbee and Maydew resulted in lower estimates for new jobs created under a single sales factor. Mr. Mazerov concluded that:

- The single sales factor is unlikely to be effective or cost-effective in bringing about job creation or investment.
- A single sales factor should not be enacted while Virginia is confronting a fiscal crisis.
- There are better ways to fund economic development.

Dr. Fletcher Mangum, Mangum Economic Consulting, LLC

Manufacturing has a \$172 billion economic impact in Virginia. In 2007, manufacturing provided 286,579 jobs in Virginia, which was eight percent of total employment. Virginia manufacturing jobs on average paid \$48,516 per year in 2007, which was five percent above the statewide average. Manufacturing has a larger impact in the Shenandoah Valley, Western Virginia, New River/Mount Rogers, Region 2000, West Piedmont, South Central, and the Crater Area regions of the Commonwealth. A 2005 Ernst & Young study found that the effective state and local tax rate in Virginia on manufacturing is 2.2 times higher than on professional services; 1.9 times higher than on information, data, and computer services; 1.5 times higher than on agriculture and forestry; and 1.4 times higher than on retail. Between 1990 and 2007 Virginia manufacturing employment fell 32 percent, while between 2000 and 2007 Virginia manufacturing employment fell 22 percent.

Dr. Mangum testified that the single sales factor:

- Removes the current disincentive on increasing Virginia employment and capital investment.
- Encourages companies that have a disproportionately high economic impact on Virginia to locate in the Commonwealth.
- Shifts some of the tax burden to businesses located outside the Commonwealth.
- Keeps Virginia competitive with other states.

Dr. Mangum stated that between 2007 and 2008 10 states increased their sales factor weight and the number of states offering at least an optional single sales factor increased from 11 to 15.

Dr. Mangum concluded that the Goolsbee/Maydew single sales factor study in 2000 is the most comprehensive study to date of the single sales factor. It employed a 50-state analysis based on 20 years of data and used a multivariate regression analysis to control for the effect of other factors on employment. The study found that moving from a 50 percent to a 100 percent sales factor in New York increased manufacturing employment by 3.5 percent and nonmanufacturing employment by 1.3 percent within three years.

Based on current trends, Virginia manufacturing employment could decline from 286,579 jobs in 2007 to 241,173 jobs in 2012, or 45,406 jobs. A loss of these 45,406 jobs would result in a loss of \$396 million in state tax revenue (\$70 million in business taxes, \$160 million in individual taxes, and \$166 million in sales and use taxes). Applying the Goolsbee/Maydew estimate of a 3.5 percent increase in manufacturing jobs from the implementation of a single sales factor means that 8,441 of the 45,406 manufacturing jobs otherwise projected to be lost

could be retained if the single sales factor was implemented in Virginia. Saving these 8,441 jobs would result in a positive revenue impact of \$75 million annually (\$13 million in business taxes, \$30 million in individual taxes, and \$32 million in sales and use taxes).

Brett A. Vassey, Virginia Manufacturers Association

The General Assembly found by statute that manufacturing facilities would enhance Virginia's economic vitality. Mr. Vassey stated that in 2006 the Joint Legislative Audit and Review Commission (JLARC) found that the state and local tax burden on Virginia manufacturing is "higher than its proportional percentage of the State's economy in terms of employment, the number of firms, and total gross state product."

Virginia manufacturing supports 1,015,971 jobs (303,829 direct and 712,142 indirect jobs) and is responsible for \$172 billion in annual economic output (\$85.8 billion in direct output and \$86.2 billion in additional output). Based on calendar year 2005 data, Virginia's manufacturing sector, its supporting industries, and its employees generate \$6.3 billion in tax revenue each year (\$3.5 billion in state tax revenue and \$2.8 billion in local tax revenue). Manufacturing accounted for 9.3 percent or \$34.2 billion of Virginia's \$369.7 billion in gross domestic product in 2006.

Between 1990 and 2007, manufacturing jobs decreased by 118,944. Conversely, between 1990 and 2006, manufacturing wages increased by 82.1 percent. A JLARC survey in 2006 of Virginia manufacturers determined that workforce quality and availability followed by workforce costs and taxes were the most important determinants for investment decisions.

Since 2005, Virginia manufacturing job announcements are down 44 percent and capital investment announcements are down 49 percent. In a 2008 evaluation by the Ball State University, Virginia ranked fiftieth in growth in value-added manufacturing. Among competing Southern states, Virginia has the highest effective tax rate on manufacturers at 11.6 percent (Alabama, 8.5 percent; Georgia, 7.5 percent; Kentucky, 6.2 percent; North Carolina, 8.8 percent; and South Carolina, 10.4 percent). Each year manufacturing tax compliance costs in Virginia are \$113 million to \$201 million. Manufacturers pay 27 percent of local business taxes and 35 percent of total corporate income taxes.

Mr. Vassey told the joint subcommittee that 19 states have already adopted a single sales factor. Mr. Vassey concluded that:

- Doing nothing may cost \$396 million in state and local revenue by 2012.
- Manufacturing overall performance has declined in the last seven years.
- Analysis of the single sales factor requires the consideration of the substantial impact that manufacturers have on both their suppliers and the Commonwealth.
- Manufacturers have demonstrated that they have invested in their workforce.
- Capital investment is slowing.

Rob Shinn, Capital Results

Rob Shinn stated that the trend in many states is toward adoption of a single sales factor for the apportionment of multistate corporation income. He stated that the single sales factor rewards corporations for making investments in Virginia. Mr. Shinn testified that the Goolsbee/Maydew studies were the most comprehensive and reliable because they controlled for many different variables that can impact employment. He concluded by mentioning that the single, biggest issue for the business of Barr Laboratories is the single sales factor.

Next Meeting

The fourth meeting is scheduled for November 17 at 10:00 a.m. The meeting agenda will be posted on the study's website prior to that meeting.

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>

Manufacturing in Virginia is responsible for \$172 billion in annual economic output.

Reminder

The final meeting of Joint Subcommittees for Interim Studies should be held by November 30th.

SJR 122: Joint Subcommittee to Study Regional Rapid Transit Networks

October 1, 2008

The state transportation model was established in the 1930s.

The first meeting of the joint subcommittee was held in Woodbridge. Senator Colgan called the meeting to order. Senator Barker was unanimously elected chair, and Delegate Watts, vice chair.

Presentation

Tom Hirst, Rapid Transit Action Committee

Bill Vincent, Breakthrough Technologies Institute

According to Tom Hirst, there are two crises facing Virginia: transportation and revenue. Increasing congestion, rising gas prices, and other economic concerns are having a big impact on household budgets. Mr. Hirst looked at the historical perspective on Northern Virginia's growth. The job and population centers are moving further apart, creating longer commutes, congestion, and infrastructure needs. The state transportation model, established in the 1930s, requires reexamination. According to Mr. Hirst, there are transit opportunities. Connecting 15 major activity centers in Northern Virginia would provide a cost-effective, efficient transportation option and new opportunities for economic growth at the transit stations.

Bill Vincent then explained bus rapid transit (BRT), a public transport system that improves travel times, creates a premium image for public transport, and promotes transit-oriented development around stations. BRT's features include traffic avoidance, better service, new technologies, and real-time vehicle tracking and control. Mr. Vincent looked at the "Quick Start" or "BRT Lite" option, which identifies options that can update existing buses. "Full BRT" or "BRT Heavy" is a more extensive BRT system. Mr. Vincent said that BRT works because it takes cars off the road and creates a more efficient use of existing lanes.

Mr. Hirst and Mr. Vincent looked at possible next steps for the longer term. These include recognizing and redefining the expanded Northern Virginia, establishing a regional rapid transit network to connect existing and emerging activity centers within the region, and improving the link between land use plans and transport capacity.

October 22, 2008

The second meeting of the joint subcommittee was held in Woodbridge. In brief opening remarks, Chairman Barker explained that since the joint subcommittee had not begun meeting until October 1, it would not be possible to complete its work by November 30, as required by Senate Joint Resolution 122, but that he had received permission from Senator Whipple, Chairman of the Committee on Rules, to hold the group's fourth and final meeting in December.

Presentations

Corey W. Hill, VDRPT

Corey Hill of Virginia Department of Rail and Public Transportation (VDRPT) began by pointing out the common characteristics of BRT systems. At present, no bus rapid transit operations in Northern Virginia display all of them. At present, services with some BRT characteristics are operating in the following corridors: I-95, I-395, I-66, U.S. Rte. 1, VA Rte. 267 (Dulles Airport Corridor), and VA Rte. 244 (Columbia Pike Corridor).

Although they are not planning to include fully dedicated bus lanes, Mr. Hill explained that the construction of high-occupancy toll lanes (HOT lanes) on I-95, I-395, and I-495 in Northern Virginia would be very helpful to the further development of BRT operations in the area, not only by providing quasi-dedicated lanes for bus operations, but also by providing additional revenues from concession payments to support public transit. He gave specific examples, and cited ongoing studies to be conducted by VDRPT, the Virginia Department of Transportation (VDOT), the National Capital Transportation Planning Board, and George Mason University looking toward expanding BRT to serve population and activity centers throughout the region. In his conclusion, Mr. Hill pointed out that using an incremental approach to expanding BRT in Northern Virginia not only makes the program financially feasible, but brings significant improvements in the short term by reducing travel time, increasing ridership, improving coordination of services, providing relief to passenger rail systems, and encouraging public-private partnerships.

Ronald Kirby, Department of Transportation Planning, Metropolitan Washington Council of Governments

Ronald Kirby observed that employment in Northern Virginia has been growing faster than its

population, making increased use of mass transit not only feasible, but necessary as well, in order to limit increases in traffic congestion. Several of Mr. Kirby's remarks underscored the interdependence of transportation planning and land use planning and linked increased transit use to efforts to improve air quality and reduce greenhouse gas emissions.

Alfred H. Harf, PRTC

Alfred Harf discussed Potomac-Rappahannock Transportation Commission (PRTC) and how its programs and operation fit into the broader Northern Virginia regional context. He gave several illustrations to show that BRT is actually a continuum of costs and benefits, and that the success of any BRT services depends on maximizing the benefits while minimizing costs. Like the day's other speakers, Mr. Harf pointed out that existing BRT operations in Northern Virginia are at "the lower end of the continuum."

Tom Biesiadny, NVTA

Tom Biesiadny began by providing the members with the background and mission of the Northern Virginia Transportation Authority (NVTA), focusing on the production and approval of the TransAction2030, a regional long-range transportation plan that has identified the need for \$16.6 billion in additional Northern Virginia transportation funding over the next 25 years. His remarks also pointed out to the members the negative impact that

the Virginia Supreme Court's ruling voiding the NVTA funding included in House Bill No. 3202 (2007) has had on NVTA's plans and operations. Mr. Biesiadny concluded his remarks by providing the joint subcommittee with specific examples of BRT services currently being provided in Fairfax County.

Next Meeting

The next meeting date, to be held some time in November, will be posted on the committee website and the General Assembly website as soon as information is available.

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>

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

October 6, 2008

The first meeting of the joint subcommittee was held in Richmond. Since this was the first meeting of the 2008 interim and the joint subcommittee is operating under a new resolution, elections were held. Senator Emmett W. Hanger, Jr., was elected chair, and Delegate Philip A. Hamilton, vice-chair.

Charlotte McNulty, Harrisonburg-Rockingham Comprehensive Services Board

Charlotte McNulty gave an update on activities of the Office on behalf of the Office of Comprehensive Services (CSA). Kim McGaughy, former director of the Office of CSA, has taken another position, so Ms. McNulty is acting as interim co-director. Ms. McNulty updated the joint subcommittee on implementations of the legislative actions from the 2008 General Assembly session. She first spoke about the 50% reduction in locality match rates for community-based services that went into

effect on July 1 of this year. The Office of CSA conducted six regional trainings on the match rate changes in July and August, with a total of 219 attendees. There was some discussion on the service placement type definitions that were changed in conjunction with the match rate changes. Delegate Hamilton pointed out that there was frustration in some of the localities, where they felt they were being required to implement changes with definitions that weren't entirely clear. It was agreed that there should be ample training for localities to explain the new definitions.

Ms. McNulty also discussed implementation of the data set changes, which were part of the regional trainings, and implementation of the Indiana assessment tool, the Child and Adolescent Needs and Strengths (CANS). Through various trainings, so far 355 users have been certified in using the tool. Finally, Ms. McNulty updated the joint subcommittee on the work of various CSA workgroups.

The Office of Comprehensive Services conducted six regional trainings on match rate changes in July and August.

Raymond Ratke, Department of Mental Health, Mental Retardation & Substance Abuse Services

Raymond Ratke gave an update on children's mental health services. He spoke of the Council on Reform's (CORE) role in leading reform in this area. The four critical reform areas are:

- To adopt a statewide philosophy of care and practice model.
- To implement a training program based on the practice model.
- To increase family-based placements (as opposed to congregate care).
- To improve the use of data as a management tool.

Currently, they are in Phase I of the reform effort, which involves working with 13 localities in these areas, before going statewide in Phase II. He gave an overview of the reform process and spoke of some success they have seen already in the reduction of congregate care in Phase I localities. He also gave a timeline for reform going forward, which includes a plan to take the reform statewide in January of 2009.

Discussion of Work Plan

Following presentations, the joint subcommittee discussed the study plan for the remainder of the 2008 interim. All agreed that it would be valuable to get input from localities at various locations.

Members tentatively agreed on three future meetings in Northern Virginia, Portsmouth, and Roanoke, in order to hear from both local CSA workers and local government representatives.

Next Meeting

Members agreed that they would try to schedule three more meetings, one in late October, one in November, and one in early December, if possible. The next meeting date will be posted on the committee website and the General Assembly website as soon as information is available.

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>

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

October 9, 2008

A new homeowner spends an additional 15 percent of the home's value on furnishings and other items for the home.

The joint subcommittee held its second meeting in Richmond. According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring the transition to channeling development into Urban Development Areas, and determining if additional legislation is needed to help localities as they transition to Urban Development Areas. Moreover, the aforementioned resolutions require the joint subcommittee to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Work Group #1

Delegate Glenn Oder, Chair of Work Group #1, reported on the Work Group #1 meeting held on October 9 in Richmond. Work Group #1 is tasked with answering the following questions:

- Can, and how, cash proffers/impact fees be utilized within an Urban Development Area (UDA) to encourage development near water/sewer/other infrastructure and discourage development that is not near water/sewer/other infrastructure?
- Can, and how, cash proffers/impact fees be used to enhance local infrastructure financing, promote higher density inside UDAs, protect farmland/forests/open space?
- Do either the statutes for cash proffers/impact fees or Urban Development Areas need to be amended to further the legislative goals in the UDA law?
- What is this group's role in relation to the Speaker's group negotiating SB768 from the 2008 session?
- What is the appropriate relationship between the financing tools (cash proffers/impact fees) and the land use tool (UDA)?
- What is this group's role in shaping future state policy?

Work Group #1 discussed each of these questions and reported to the joint subcommittee that there was consensus on incentivizing increased density in urban development areas but no consensus on discouraging development in other areas of a locality through increased fees. There was also agreement

among work group members that cash proffers and impact fees should not be considered a reliable source of local government funding due to their unpredictability and their nature as a one-time fee. It was also determined that issues related to the cash proffer system and impact fees were better left at this time to the group that has been asked to negotiate those issues during the 2008 interim. Finally, the work group agreed that the use of community development authorities (CDAs) for purposes of local infrastructure development warranted further investigation by the work group and that a future presentation on CDAs may be appropriate.

Work Group # 2

Lisa Guthrie, vice-chair, reported on the Work Group #2 meeting, held on October 9 in Richmond.

Work Group #2 is tasked with answering the following questions:

- What is necessary legislatively to better promote cooperation between a locality establishing an urban development area and those public and private entities necessary to the establishment of a successful urban development area (e.g., state agencies, utility companies serving that locality, redevelopment and housing authorities, incorporated towns within or neighboring the locality)?
- Should the duties of the Commission on Local Government be expanded to better promote a locality's establishment of an urban development area?
- What is the appropriate role of the state in establishing and furthering urban development areas?
- Can state regulations that prevent the successful development of urban development areas be amended to avoid prevention?
- What role can regional planning district commissions play in helping to establish locations of urban development areas?
- How can counties and incorporated towns within counties be encouraged to designate the incorporated towns as urban development areas?
- What roles do boundary adjustments play in furthering development near municipal water and sewer lines?
- Can the transfer of development rights statute be amended to promote counties establishing urban development areas in towns?

The members discussed the appropriate role of the Commonwealth in establishing and furthering urban development areas and regulations that prevent the successful development of urban development areas. First, and respectively, the group discussed the advantages and disadvantages of the Commission on Local Government, a commission within the Department of Housing and Community Development, providing technical assistance to localities in planning urban development areas; noting staff limitations, the group discussed the role of regional planning commissions with respect to planning urban

development areas. Second, several members discussed the impact that recently promulgated regulations relating to nutrient caps, sewer capacity, etc, would have on intensifying development in counties where existing dense development relies on private water wells and septic systems, as opposed to sewer lines and waterlines.

Work Group # 3

Matthew Bolster, AICP, Senior Policy Analyst, Commission on Local Government, Virginia Department of Housing and Community Development, reported on the work group meeting held October 2, 2008.

Work Group #3 is tasked with answering the following questions:

- How can the statute governing urban development areas be enforceable and less prone to differing interpretations?
- How can the mandate that localities adopt urban development areas in the comprehensive plans be enforced? Should localities be required to adopt urban development areas, but not as a part of the comprehensive plan?
- What is necessary legislatively to promote urban development areas as areas for redevelopment in cities?
- Should the law be different for zoning and subdividing land in urban development areas?
- Should there be a deadline by which municipalities must adopt an urban development area?
- What is necessary legislatively to better promote the direction of state and local transportation dollars for housing, economic development, and transportation to urban development areas?
- Can the minimum density requirement for urban development areas be averaged out throughout the urban development area?

The members discussed the following:

- Whether the law should provide a means by which an individual can seek enforcement of the urban development statute other than a mandamus action.
- Whether municipalities should enjoy the same deadline counties currently enjoy with respect to the adoption of urban development areas.
- Whether the minimum density requirement for urban development areas should be averaged out throughout the urban development area.
- If state agencies, such as the Virginia Resources Authority, could leverage their money to ensure or promote urban development areas.

First, the members did not reach a consensus as to whether the law should provide a means by which an individual can seek enforcement of the urban development statute other than a mandamus action or as to whether the minimum density requirement for urban development areas can/should be averaged out throughout the urban development area. Second, the members recommended legislation that would confer

Cash proffers help furnish capital improvements undertaken by localities.

Three
Work Groups
reported their
findings and
discussions
at the
meeting.

upon municipalities the same deadline enjoyed by counties with respect to the adoption of urban development areas. Lastly, the members decided to further discuss whether state agencies could and should leverage their money to ensure or promote urban development areas.

Presentations

Michael Toalson, Home Builders Association of Virginia

Michael Toalson gave a presentation on behalf of the Home Builders Association of Virginia. He began by quantifying the housing economy (e.g., new homeowner spends an additional 15 percent of the home's value on furnishings and other items for the home). He explained how old land use planning promoted urban sprawl and how current market factors promote development of mixed-use properties. After discussing state constitutional guarantees relating to property, Mr. Toalson stated that, despite the movement to new urbanism, consumers should still retain choice in housing types. He noted the means authorized under the Code of Virginia by which Virginia localities can conduct land use planning (e.g., the collection of impact fees and proffers, the creation of urban development areas). Finally, Mr. Toalson shared the reaction of the Home Builders Association of Virginia to the legislative prescription of urban development areas, suggested amendments to § 15.2-2223.1 of the Code of Virginia, and listed principles relating to conditional zoning (proffers) that the Home Builders Association of Virginia believe should guide infrastructure financing.

Peter M. Stephenson, Town of Smithfield

Peter Stephenson delivered a presentation to the joint subcommittee. He first explained the goals of

House Bill 3202 (2007), as they relate to land use planning. The presentation centered on a discussion of conditional zoning and impact fees. First, Mr. Stephenson, quantitatively, showed how cash proffers help furnish capital improvements undertaken by localities. However, he stated that a properly enacted impact fee system, which would not include artificial limits on the fee amounts, could promote more intense development near urban centers with a lower or no impact fee in the area encompassing development, as opposed to a higher fee outside of area. Mr. Stephenson also highlighted the use of cash proffers by localities that do not collect them, e.g., an incorporated town that collects cash proffers using cash, in conjunction with the surrounding county that does not collect cash proffers, to build a school for students residing in or near the incorporated town.

Next Meeting

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

HJR 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>

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

October 20, 2008

The joint subcommittee held its meeting in Richmond. As Chairman Hamilton was in another meeting, vice-chairman Delegate Hall opened the meeting, with Chairman Hamilton joining shortly thereafter.

Presentations

Paul Baker, Hampden-Sydney College

Paul Baker gave a detailed presentation on Hampden-Sydney's recent experience building a new library. In total, it was a 20-year project, conceived in

1987 and ready for occupancy in 2007. He spoke of the difficulties in having to raise the \$18 million required for this project with no state aid. Fundraising for the project began in 2001, and is still ongoing. When asked if Hampden-Sydney considered using the Virginia College Building Authority, he replied that the college looked into it, but the process was cumbersome and not the most cost-efficient option.

Robert Lindgren, Randolph-Macon College

Robert Lindgren spoke more generally about capital projects. He underscored the difficulties in raising money for capital projects without state assistance. He mentioned that most donations are

not made for building purposes. If the project is for renovations of existing structures, which have presumably already been named, the challenges are even greater.

He also spoke about his experience in Maryland, when he was working for Johns Hopkins University. There he took advantage of a Maryland program, where each year the legislative body appropriates \$8-\$9 million to the state's equivalent of the Council of Independent Colleges in Virginia, which is then doled out to private institutions for capital projects. Having state support for a program also helped lure private investors. When asked, he also stated that while Randolph-Macon has in the past used the Virginia College Building Authority, it is not the most cost-effective method of financing a project.

Robert Lambeth, Council of Independent Colleges in Virginia

Robert Lambeth provided the joint subcommittee with an overview of publicly supported programs for private institutions in other states. Several states provide support for capital projects, similar to the Maryland program, although Maryland appears to be the only state that provides regular, annual support.

Mr. Lambeth pointed out that Virginia is currently one of only 11 states that does not offer a state-sponsored student loan program. Members were interested to learn this, and it was added to the list of topics to be discussed next year. Forty-eight states, including Virginia, offer state funding to students attending private institutions. Four states offer additional state funding to private institutions, based on either enrollment, enrollment of low-income students, in-state enrollment, or degree completion.

Mr. Lambeth explained that there are a variety of additional measures states have taken to assist private institutions, including tuition tax credits or deductions, special funding for high needs areas, such as nursing, and a state match program to encourage federal or private research funding. In addition to his presentation, he also provided members with a binder full of detailed information on various state programs.

Next Meeting and Work Plan

Staff presented a tentative two-year work-plan and the members added several topics for discussion. The joint subcommittee will not meet again until the 2009 interim, but permission will be sought to carry over the two unused meetings from 2008. The next meeting will most likely be sometime during the spring of 2009.

Virginia is currently one of only 11 states that does not offer a state-sponsored student loan program.

HJR 91

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

Delegate Phillip Hamilton, Chair

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

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

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

October 22, 2008

The joint subcommittee met in Norfolk for its third meeting.

Presentations

Michael McClellan, Norfolk Southern Corp.

Norfolk Southern is the second largest eastern railroad carrier in terms of revenue and track mileage. In the last four quarters, Norfolk Southern generated over \$10 billion, with coal and intermodal accounting for about 47% of this revenue. Intermodal is 20% of revenue and 41% of units. While Norfolk Southern serves most of the primary ports on the east coast and does significant intermodal and dry cargo business at all of them, the port facilities of Hampton Roads are of particular importance to the railroad for several reasons.

First, Norfolk Southern owns and operates a large general merchandise port facility, Lambert's Point Docks. Second, Norfolk is home to Lambert's Point coal piers, which provide the majority of Norfolk Southern's capacity for coal exports. Finally, the Hampton Roads container terminals, including the Portlock facility in Chesapeake, are a critical part of Norfolk Southern's overall intermodal network.

Mr. McClellan advised that Norfolk Southern has an extensive intermodal network serving the East Coast ports, but that the company could not comment directly on the merits of privatizing all or a portion of the property or operations of the Virginia Port Authority (VPA), as it does not know the structural form or economic costs and benefits that the Commonwealth might be considering for such a transaction. However, given that Norfolk Southern has a large portion of its international intermodal business generated from VPA facilities, it is a key stakeholder in this process and

Norfolk Southern
considers
economics,
development, and
investment key
criteria in
evaluating
changes to the
container
operations at the
Virginia Port
Authority.

wants to ensure that whatever structure is ultimately adopted promotes the viability of this port. To this end, Mr. McClellan recommended three key criteria in evaluating any change in the current structure of the container operations of the VPA: economics, development, and investment.

The first criterion should be preserving and enhancing the port's economic competitiveness. Steamship lines are extremely sensitive to even small changes in their overall cost structures. When costs go up for either port or inland services, the steamship lines have proven very adept at quickly shifting their networks to lower cost solutions when cost inputs change. This is particularly true when they perceive that these cost changes are structural and permanent. Thus, if a change in the current structure of the VPA would result in an increase in the cost structure and price structure of the port in a meaningful way, Norfolk Southern believes that this would be a negative for the port overall. Such a cost increase might manifest itself in container fees, increased debt by a new entity, or increased land rents or taxes, all of which would ultimately drive up the prices per unit to the steamship lines and ultimate shippers, driving away freight. Mr. McClellan suggested that developing privately funded and operated terminal facilities on Craney Island seems to be one of the approaches that the VPA might engage in to ensure cost competitiveness of the port, particularly for those steamship lines that are demanding their own terminal assets on the East Coast.

The second criterion is preserving and enhancing the port's economic development role and capabilities. While the vessel and port economics are the opening ante when steamship lines determine their vessel rotations, having a strong base of customers that receive or generate cargo is required for a winning hand. Competition to develop landside customers and facilities up and down the East Coast is fierce, and ensuring that the VPA or any new entity has an economic development mission, and is closely aligned with other economic development entities in the Commonwealth of Virginia, is a very important capability for the success of this, or any, port.

The third and final criterion is ensuring the continued investment in the port for both capacity and productivity. While it is conceivable that a change in structure of the VPA and its operations might not result in any immediate increase in today's cost structure, if such a deal inhibited investment in the port's facilities, it would be easy to envision a gradual erosion in the strategic competitiveness of the port. Capacity growth capability and ongoing operational productivity improvements are key determinants when steamship lines select ports for their operations. Any degradation in the ability of a new owner

to invest in capacity and productivity, whether perceived or real, will degrade the strategic competitive position of any port.

One criterion not mentioned is the ultimate value that could be derived by the Commonwealth from the privatization of all or part of the VPA and its operations. The competitive position of all of the ports in Hampton Roads is of extreme importance to Norfolk Southern, and not just because the ports in Hampton Roads produce more container volume for Norfolk Southern than any other port. Norfolk Southern, along with the Commonwealth of Virginia and the federal government, and with the support of the VPA and the Virginia Maritime Association, are undertaking one of the most expensive and complex clearance and line improvement projects in the company's history.

Thomas J. Simmers, Ceres Terminals, Inc.

Thomas Simmers discussed the number of vessels, operating income, revenue, and locations of the operating and landlord ports of Ceres Terminals, Inc. Mr. Simmers discussed how, in his opinion, privatizing works from an operating perspective. According to Mr. Simmers, the privatized model of ports operations increases profit margins, decreases costs, better utilizes assets, delivers more seamless service, and focuses on both land transportation and vessel production. Moreover, Mr. Simmers testified that privatization frees up government capital for other public projects and can make the ports more competitive because private industry can build quicker and more efficiently than the government.

Andy Hecker and Mike Crist,
Moffatt & Nichol

Andy Hecker and Mike Crist delivered a presentation about the 2040 Master Plan update for the Port of Virginia. The presentation began by the gentlemen discussing the purposes of the Port of Virginia: the promotion of maritime commerce, economic and local business growth, job creation. Next, Mr. Hecker and Mr. Crist discussed the needs of the Port of Virginia being met by balancing demand and capacity, long-term planning, investments, and fiscal discipline. Noting the efficient transportation, such as rail improvements, assists in the generation of statewide benefits, Mr. Hecker and Mr. Crist stated that opportunities exist to grow demand of port use, maximize productivity gains, promote distribution of jobs, buildings, and cargo, and advance technology through operational efficiency and automation. Furthermore, Mr. Hecker and Mr. Crist acknowledged the uncertainty of the national economy, that competition for cargo and land distribution centers is fierce, and the need for continual evaluation of short-term and long-term capital and resource allocations. Mr. Hecker and Mr. Crist stated that port activity

continues to generate benefits for Virginia; a fiscally conservative plan supports growth and needed investments; capital improvement plans relating to Craney Island fit funding scenarios; and economic uncertainties affect the pace of long term plans. *All the presentations can be found in their entirety on the joint subcommittee's website.*

Next Meeting

The next meeting is scheduled to meet in Norfolk at Old Dominion University on December 1, 2008.

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>

Did You Know?

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

RIS and Town Hall Receive 2008 Governor's Technology Award

The Virginia Code Commission, Division of Legislative Automated Systems, and Department of Planning and Budget each received the 2008 Governor's Technology Award at the Commonwealth of Virginia Information Technology Symposium (COVITS) on Monday, September 8 at the Williamsburg Marriott for their joint nomination in the "cross-boundary collaboration" category. The submission titled "Regulation Information System (RIS) and Virginia Regulatory Town Hall 2.0" highlighted, among other things, the collaborative effort between three agencies in two branches of government to implement and streamline the electronic filing of regulations for publication in the *Virginia Register of Regulations* and to provide for daily updating of the *Virginia Administrative Code*.

Launched in July 2007, the Regulation Information System is a web-based application that allows agencies to create regulatory text, submit the text to Town Hall for executive branch review, and submit projects electronically to the Registrar for publication. In addition, the Registrar's Office uses the system to prepare and publish the biweekly *Virginia Register of Regulations* and to make improvements to and maintain the *Virginia Administrative Code* database online with daily updates. Almost 300 state agency personnel are trained, registered RIS users.

RIS and Town Hall 2.0 were developed in-house by state personnel with almost no hard costs; the return on staff time investment includes significant savings in time

and vast improvements in usability, accuracy and transparency for citizens. Their collaboration provides a model for electronic rulemaking nationwide.

* * *

The *Virginia Register of Regulations* is Virginia's official state publication of regulations. All regulations must be filed with the Registrar of Regulations for them to become law. The Register, which will be celebrating its 25th year in 2009, was established in 1984 by the General Assembly to further enhance public participation in the regulatory process and is published every other Monday by the Register staff.

The *Virginia Administrative Code* is the compilation of permanent regulations for the Commonwealth of Virginia that have the force of law. It was compiled and initially published in 1996 by the authority given to the Code Commission in Chapter 216 of the 1992 Acts of Assembly.

The Virginia Regulator Town Hall is a website managed by the Department of Planning and Budget. Through this website, executive branch agencies submit regulations for review and approval of the Governor and electronically submit regulatory actions to the Registrar's Office for publication. It facilitates public participation through online comment forums and an email notification service.

For information on Virginia's regulatory process, contact the Registrar's Office, part of the Division of Legislative Services, at 786-3591.

Lilli D. Hausenfluck,
Editor, Virginia Administrative Code

Study Meeting Calendar for November - December '08

| <i>Study Name</i> | <i>Meeting Information</i> | <i>DLS Staff</i> |
|---|---|----------------------------------|
| Development and Land Use Tools, Workgroup #2 <i>Followed by</i> *Full Committee | 8:30 a.m., Wednesday, November 12, 2008 GAB, 7th Floor West Conference Room C *9:30 a.m., Capitol, House Room 1 | Kevin Stokes Jeff Sharp |
| Local Incentives to Private Businesses for Economic Development | 8:30 a.m., Wednesday, November 12, 2008 GAB, House Room D | Amigo Wade |
| Special Subcommittees of House Committee on General Laws and Senate Committee on Rehabilitation and Social Services Studying Certain ABC Issues | 10:00 a.m., Friday, November 14, 2008 Capitol, House Room 1 | Maria Everett Patrick Cushing |
| Math Science and Technology Education | 10:00 a.m., Monday, November 17, 2008 Capitol, House Room 1 | Patrick Cushing Nicole Cheuk |
| Benefits of Adopting a Single Sales Factor | 10:00 a.m., Monday, November 17, 2008 GAB Bldg, House Room D | Joan Putney Mark Vucci |
| Transfer of Development Rights | 10:00 a.m., Monday, November 17, 2008 GAB Bldg, House Room C | Jeff Sharp |
| Substance Abuse Prevention and Treatment | 10:00 a.m., Tuesday, November 18, 2008 GAB Bldg, Senate Room A | Sarah Stanton |
| Public-Private Partnerships Related to Seaports | 1:00 p.m., Monday, December 1, 2008 Location to be determined in the Norfolk area | Kevin Stokes Caroline Stalker |
| Hampton Roads Transportation Network | 10:00 a.m., Wednesday, December 10, 2008 Virginia Modeling, Analysis and Simulation Center 1030 University Boulevard, Suffolk | Alan Wambold |

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



DLS BULLETIN BOARD

- Prefiling of legislation for the upcoming General Assembly Session began July 21, 2008.
- Final meetings for Interim Studies should be held by November 30, 2008.
- Committee action on continued legislation must be completed by midnight December 4, 2008.
- All requests for drafts of legislation to be prefiled need to be to DLS by 5 p.m. on Monday, December 8, 2008.
- Joint subcommittees should submit an executive summary, including their findings and recommendations, to DLAS by the first day of the General Assembly's Regular Session.
- 2009 General Assembly Session begins at noon on January 14, 2009.

COMMISSIONS AND COUNCILS

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

Virginia Sesquicentennial of the American Civil War Commission

Workgroup 2 - Signature Events 9/24/08

Speaker Howell welcomed workgroup members and those present at the meeting. He also introduced Dr. Paul Levenson, who will succeed Dr. Charles F. Bryan, Jr., as President and Chief Executive Officer of the Virginia Historical Society in November.

Signature Conference

Carolyn Martin of the University of Richmond offered an overview of the first annual Signature Conference, which will be chaired by UR President, Dr. Edward L. Ayers, and held on Wednesday, April 29, 2009, in the Robins Center. Geared specifically for the general audience, the innovative conference format will find panelists speaking from the perspective of someone living in 1859 - two years before the first gunshots of the Civil War were fired. Four sessions will be offered, each with at least four participants: "Taking Stock of the Nation in 1859," "The Future of Virginia and the South," "Making Sense of John Brown's Raid," and "Predictions for the Election of 1860." Dr. Ayers will moderate and participate in each session, styling discussions on news shows such as "Meet the Press" and "Face the Nation."

Cheryl Jackson demonstrated online registration for the conference, which launched earlier in the week. The conference is free to the public but seating is limited to 2,500, so early registration is encouraged. Partner institutions throughout the state, including museums, parks, and Civil War sites, will be asked to join in publicizing the conference by linking to the website and distributing printed materials. Speaker Howell stressed the importance of such cross-promotion, and urged partner sites to do all they can to help get the word out. In addition, staff was directed to issue an RFP for the conference book sale vendor to Civil War museums in the Richmond area.

John Felton of Central Virginia PBS discussed a proposal for filming and broadcasting the conference that includes live broadcast via C-SPAN and webcasting, development of four stand-alone programs on DVD, a one-hour highlight reel for prime-time broadcast, and *e-clips* prepared for schools. Speaker Howell asked Mr. Felton to work with PBS affiliates across the country to ensure widespread distribution of the one-hour highlight program. The workgroup indicated its consensus that Central Virginia PBS serve as the vendor for filming and broadcasting the conference.

Dick Holway of UVA Press presented a proposal for publishing the conference proceedings. Since the conference format is unique, Dr. Ayers' recommendation is that an edited transcript of the panel discussions be compiled by a graduate student for publication. In response to questions, Mr. Holway indicated that publication time may take up to one year, although this project could be fast-tracked. The workgroup indicated its consensus that staff work with UVA Press to develop a contract for publication of the proceedings that both supports the conference format and falls in line with the overall conference budget.

Kathy Panoff of the Modlin Center for the Arts discussed a music theatre work that is being commissioned specifically for the sesquicentennial by the University of Richmond, the Virginia Arts Festival and the Virginia Opera. Set to debut in April 2011 at the Virginia Arts Festival, the piece will travel throughout Virginia and to other states during the commemoration. Award-winning composer Ricky Ian Gordon is attached to the project, which has a budget of \$300,000 for which private sponsors will be sought. Ms. Panoff asked the Commission to serve as a promotional partner, allowing localities to use micro-grant funding towards the cost of bringing the piece to the area. Speaker Howell invited Ms. Panoff to present her request to the full Commission at its November meeting.

Project Status Updates

Traveling museum exhibition

The Virginia Historical Society (VHS) continues to develop the museum exhibition, "America's Great Turning Point: The Civil War in Virginia," which will open in February 2011 and travel throughout the state during the commemoration. Two venue changes have been made to the proposed travel schedule, deleting Fredericksburg and adding Appomattox provisionally. The Commission received a \$40,000 planning grant from the National Endowment for the Humanities in support of the exhibition and its derivative components, a traveling panel exhibition and a mobile museum.

HistoryMobile

The Commission has hired Out of Bounds, a mobile marketing company based in Los Angeles, for consultant services in the development of the design of the HistoryMobile as well as the identification of content from the VHS exhibition that can be modified for the mobile museum. The Commission has extended Out of Bounds' contract through January.

Educational film

Production continues on the DVD being produced by Blue Ridge Public Television. At the request of the Commission, Dr.

Robertson provided an outline of the eight 20-minute segments: Painful Road to War, First Manassas to Second Manassas, Homefront, Common Soldiers, Antietam to Gettysburg, Personalities, Slow Death of Lee's Army, Legacies of the War.

National Kickoff

Plans continue to be developed in cooperation with the state of West Virginia and Harper's Ferry National Historical Park for a media event on June 25, 2009, that will mark the 'national kickoff' of the sesquicentennial.

Sesquicentennial Moments

One of the strongest opportunities of the sesquicentennial is the chance to reach beyond the Civil War buff to also engage the general audience, helping them understand the relevance of events that occurred before, during and after the Civil War. Staff has developed an ongoing series of short essays, *Sesquicentennial Moments*, which will highlight what was happening in the country 150 years ago. The first two have been written and posted on the website: "Kansas - The Shooting Begins," and "Lincoln-Douglas Debates." A rubric and schedule of suggested topics have been developed; guest authors are welcome.

Likewise, members of the public can connect with experts online through the Commission's website, ww.VirginiaCivilWar.org, submitting questions related to any aspect of the war. Staff will submit the questions to the panel of experts, publishing selected responses. Historians serving on, or closely associated with, the Commission, Advisory Council or one of the workgroups are welcome to serve on the expert panel.

Proposed Schedule

Staff reviewed the proposed schedule of annual themes and conferences. After some discussion, it was suggested that two of the conferences be switched, to alternate a military focus and homefront focus in successive years.

Workgroup 1 - Coordination 10-15-08

Chairman Colgan welcomed everyone in attendance including new members of the workgroup and said he was honored to be Chair. He remarked that his district includes Manassas where attention will turn in 2011 as the Civil War sesquicentennial begins in earnest. He said it was the workgroup's job to highlight everything Virginia has to offer as visitors travel during the commemoration. Senator Howell was elected vice chair.

Staff Updates

Ms. Jackson brought Workgroup 1 up-to-date with plans for the inaugural Signature Conference (April 29, 2009). She urged members of the workgroup to take the postcards advertising the event and distribute them widely and stressed the website where people can both register and find out more information about the innovative panelists,

including Dr. Ed Ayers who will be speaking of events in 1859 from the historical perspective of someone who was living at that time. The Conference can accommodate an attendance of 2,500.

PBS and CSPAN are interested in broadcasting and there will also be a webcast. Ms. Jackson stressed the need for emphasis on cross-promotion with universities, museums, NPS sites, historical societies and local communities.

Ms. Jackson made note of the traveling museum exhibition, which has been awarded a \$40,000 NEH planning grant, and the HistoryMobile, an 18-wheeler \$4 million enterprise, which, if undertaken would be a public-private partnership. The educational film is almost finished and will be ready for distribution in the summer. The pilot project for Vodcast and Internet battlefield tours will debut in the summer of 2009.

The national sesquicentennial kick-off is at Harper's Ferry (June 25, 2009). Another planning meeting was held in June. Ms. Jackson said the National Park Service was very cooperative and welcoming and were glad for the Commission to visit. Plans will continue to develop for this media event.

The American Association of State and Local History is taking a coordinating role for states planning for the 150th. So far there are approximately 15 states who join in quarterly conference calls hosted by the Commission to share plans and stimulate discussion.

Staff have held informational briefings with members of the Virginian Congressional delegation including Representative Frank R. Wolf (10th District) who was very supportive and interested in working with the Commission to hold an event in Manassas in 2011. Representative Wolf published remarks commending the Commission in the *Congressional Record*. Staff also met with Representatives Bobby Scott (3rd District), Virgil Goode (5th District), Thelma Drake (2nd District) and Senator Jim Webb. The members are pleased that Virginia is in the lead among other states.

Ms. Jackson then stressed the importance of statewide partnerships and conferences. The Commission had a presence at the National Conference of State Legislatures and the American Legislative Exchange Council as well as a Virginia One conference for travel and tourism officials. The Commission has also had a presence at the Virginia Association of Museums and Virginia Municipal League annual conferences, as well as Civil War Trails regional meetings.

The Speaker has written twice to counties and cities to urge them to establish local sesquicentennial committees. The Commission needs a contact in each locality and the Commission has authorized micro grants to assist their marketing efforts for the 150th.

Ms. Jackson demonstrated the "Then/Now" interactive map on the Commission's website. Local committees are refining and enhancing the data.

Civil War Trails will be an overlay on the map, as well as museums and historical sites. Local authorities can add to the site and flesh it out with stories and more information.

Presentations

Joe Maroon and Joe Elton,
Virginia State Parks

Joe Maroon, Director, Department of Conservation and Recreation (DCR) said he was impressed by the plans and wants to work closely with the Commission. The DCR has award-winning state parks and many of the parks hold significant events. Mr. Maroon said Virginia was the first state to do the information kiosks statewide.

Joe Elton, DCR State Parks Director, then showed a video to demonstrate the kiosks that provide both information and entertainment. This will be available on the Internet soon and people can plan their trips accordingly. A calendar of events on the websites and the kiosks is updated monthly. At each kiosk, visitors can print maps and directions. The maps have convenient GPS waypoints.

There is the possibility that the DCR can partner with the Commission to build on this concept with perhaps terrain and other items included.

The DCR video demonstrated their trail videos and noted that travelers were made aware of any barriers on particular trails such as information on how 'rigorous' a particular trail was along with other information on park activities.

Mr. Elton said the technology is 'goof proof' and has been tested by the military in places such as Iraq. He said the look of the kiosks is 'iconic' and people know they can get information 24/7. The virtual tours are very helpful for families.

In response to questions, Mr. Elton mentioned that, at present, there were 34 kiosks with more coming. Some parks need more than one kiosk.

Mr. Elton said the design is done by Imperial Multimedia Group who collaborate with people from Disney and that the kiosks are all component based. They have replacement parts and only a few instances of times when systems were down. The Imperial Group makes the necessary corrections, updates the monthly calendar etc and its staff is extensively trained with the equipment. Many problems can be fixed over the phone. It was mentioned that it put up information in the knowledge that all the information was imperfect in the hope the public would help correct the information. Imperial is responsive and ensures a fast turnaround.

Cost estimated at \$20,000 per unit, which is augmented by private funding. This is the first time the DCR has had private advertising and the public has been extremely supportive.

Mr. Elton said that it was possible to integrate the website into the kiosks.

In a response to a question regarding whether or not there is an ongoing agreement for the ongoing updates and maintenance of the system, Mr. Elton said that the five-year contract with Dominion covers it and that there are no extra fees. Mr. Elton also stated that the goal is to have as much information in the kiosks as possible.

Beth Paradis Stern, SVBF

Beth Stern discussed the work that the Shenandoah Valley Battlefields National Historical District (SVBF) is undertaking and stressed it was still a work in progress. It covers eight counties and is a National Heritage Area and the first of its kind in Virginia. The idea is to help protect the battlefields. There is a management plan in place with the aim of obtaining federal funding for preservation work.

Ms. Stern outlined the 'cluster concept' that the SVBF adopted to enhance movement of visitors and location of facilities. Decisions are made by cluster partners. Ms. Stern then demonstrated the orientation center.

Mr. Don Pierce, Civil War Traveler, added that he had been to the Center in Winchester and witnessed people watching the film shown. He said there was standing room only and that the public response was extremely enthusiastic.

Ms. Stern commented that \$25,000 was allocated for the Winchester Center.

Mr. Elton then discussed the printing of maps and other material from the kiosks and spoke of the use of thermal paper that lasts longer and also stands up to rain, sun and other elements. There was some initial concern about trash but the kiosks have a recycling initiative built in.

Recommendations

Ms. Jackson noted that this workgroup is an advisory group and the Commission is looking for recommendations on where to place the kiosks. A map of the 13 Welcome Centers was shown. There was discussion about increasing this number but it was mentioned that for some of the older and smaller tourism centers that space may be a problem. There is also the issue of personnel checking on the kiosks. At present, staff check kiosks first thing in the morning. The workgroup looked at the possibility of posting a link on the Shenandoah Valley Battlefields Foundation's site to avoid duplication with possible private sector involvement.

Members of the workgroup were tasked with further developing recommendations for placement of kiosks at the Welcome Centers, National Park Service battlefields, State Civil War battlefields and selected sites.

Ms. Donna Purcell, Virginia Department of Transportation, discussed the issue of having graphics depicting the Sesquicentennial on the cover of the state map. Ms. Purcell mentioned feedback that showed that during the celebrations for the Jamestown 400th anniversary people tended to avoid the map that recognized the celebrations as they thought it was a map solely for Jamestown and surrounding areas rather than the whole of Virginia. It was discussed that perhaps a small symbol of the Sesquicentennial be put on the maps to advertise events with the web address.

Ms. Jackson went through the proposed schedule and said the Commission will travel through the Commonwealth for major events from Harpers Ferry through to Manassas.

Micro grants to local committees were discussed that provide for funding of \$2500 that can be spent on marketing of events related to the Sesquicentennial. The first grant application should happen in January 2009.

Mr. Scott Harris discussed VAM's Time-Travelers program and the thematic focus on the Sesquicentennial. Funding of \$30,000 is proposed per year 2011 - 2015.

Margo Carlock, Virginia Association of Museums, said the program will closely mirror cultural history themes. They have submitted a proposal for a National Endowment for the Humanities grant. Ms. Carlock said she hopes to expand the grant and make it multistate, which in turn will draw more people to Virginia. There are, however, problems with funding for 2009 as they presently have \$40,000 but need \$70,000. Still waiting to hear about grants though they have a 'Plan B' if the grant bid is not successful. If so, it may well end up as an all website program.

Next Meeting

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

VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION

SPEAKER WILLIAM J. HOWELL, CHAIR

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

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

<http://www.virginiacivilwar.org>

Commission on the Prevention of Human Trafficking 93008

Presentations

Dr. Karen Rotabi, VCU

Dr. Rotabi spoke on the Hague Convention on Intercountry Adoption. She said that the 70 nations, including the United States, have signed the Convention. The United States signed it in 1994 and it was fully ratified and implemented in 2008. The priorities of the convention are first to keep the family and the child together, then to attempt domestic adoption and, if that is not possible, to determine if the child is appropriate for intercountry adoption.

Dr. Rotabi said the Convention is important because since 2000, more than 200,000 children have been adopted by United States citizens, with the top-sending countries being China, Guatemala and Russia. The Convention helps

prevent theft and trickery in sending children overseas and deters "child laundering" ~ the changing of the identity of children to orphans for U.S. Visa purposes.

In a case study concerning a Cambodia/Seattle connection, 700 Cambodian children were adopted by United States residents for a \$3,500 "donation" each. Children were given up by their parents for about \$250 and parents were led to believe that the children would have prosperous American childhoods and return at age 18. The Cambodian parents often signed documents in a nonnative language.

Guatemala is a Hague signatory and adoption of Guatemalan children by United States citizens has been suspended because of orphan/visa problems. Vietnam (a problem country) is still adopting out children because it is not a Hague signatory. Dr. Rotabi added that, unfortunately, an adoption agency that deals with Russia does not have to be accredited because Russia is not a Hague signatory but that the State Department is promoting Hague signing in other non-Hague countries.

Dr. Louise Shelly, George Mason University

Dr. Shelly reported that there is considerable sex trafficking in Virginia, and that the FBI has identified the Washington, D.C. area, including Northern Virginia, as one of the 14 major child sex-trafficking centers in the U.S. Other problems are child porn on the web, labor trafficking, mail order brides and trafficking for adoption.

In a 2005 case study, Indonesians attempted to bring women between the ages of 16 and 23 into Northern Virginia. In 2007, three trafficked servants of a Kuwaiti diplomat fled the country and sued him.

The Chinese, Indonesians, and Vietnamese are primarily responsible for international trafficking, as well as gangs such as MS-13 (in Maryland), and American pimps with American girls. Trafficking in Virginia is primarily in Northern Virginia in ethnic communities - both suburbs and exurbs.

Dr. Shelly said a helpful resource is the National Center for Missing and Exploited Children (NCMEC). Delegate Rust added that a multijurisdictional gang task force is following trafficking in Northern Virginia.

One of the many problems in addressing trafficking is that migrant workers who are exploited won't cooperate with police; they are afraid and they don't know what, if any, rights they have. Dr. Shelly added that there are not enough resources to combat organized trafficking at either the state or federal level. Dr. Shelly said that trafficking cases are deep underground, requiring training to find cases; and community cooperation with landlords as apartments are used as brothels.

There are not too many migrant slave labor cases in Virginia. Dr. Shelly said that the Homeland Security Institute (a research agency affiliated with the Department of Homeland Security) might be able to provide research and guidance on trafficking. She stated that her students are energized and willing to help.

Chairman Ebbin added that the Commission should get NCMEC and other organizations involved and that grants are available.

Next Meeting

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

COMMISSION ON THE PREVENTION OF HUMAN TRAFFICKING

DELEGATE ADAM P. EBBIN, CHAIR

Robie Ingram and Jessica French, DLS Staff

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

Virginia Commission on Energy and Environment *10-14-08*

The third meeting of the Virginia Commission on Energy and Environment met at Old Dominion University in Richmond.

Presentations

Al Christopher, Virginia Clean Cities

Al Christopher reviewed several different alternative transportation fuels and discussed the benefits and drawbacks of each. Although alternative fuels will help reduce the demand for oil, Mr. Christopher stressed the importance of conservation, which is faster, cheaper, and easier to implement than any of the alternative fuels discussed.

After reviewing the different types of alternative fuels, Senator Whipple asked when Mr. Christopher would expect hydrogen vehicles to be market ready. Mr. Christopher responded that hydrogen vehicles are still not ready for the market due to their high cost and the lack of refueling stations, which are also expensive to build and operate. Due to the high cost of the technology and the high cost of producing hydrogen, market-ready vehicles are not currently feasible.

Virginia Clean Cities recently received a \$143,000 federal grant and \$60,000 in private grant money to retrofit diesel engines on school buses in the middle peninsula. Clean Cities was able to provide 76 school buses with updated emission reduction technologies.

Mr. Christopher discussed his work with the state on a waiver process to make it easier to install E85 pumps.

Mr. Christopher identified an issue with local fire officials and their resistance to E85 because it requires a different kind of foam for their trucks.

Andrew Smith, Virginia Farm Bureau

Andrew Smith provided the Commission with information on the impact of expanded renewable fuels on the nation's food supply. Mr. Smith discussed the breakdown of how corn is used in the U.S. Currently, as ethanol uses increases, it is the nation's corn export that is shrinking, not the domestic supply of corn. The overall global increase in food demand is driving up the price of corn in all countries, including the U.S. Additionally, increased fuel and processing costs, combined with a weak dollar, have resulted in higher food costs.

Mr. Smith also reviewed the variables that affect the price of corn, which includes variations in weather, world demand, ethanol production, and others.

Of the expected five percent increase in corn prices this year, 44 percent of the increase is the result of higher fuel, transportation, and energy costs.

Senator Petersen asked what farmers are doing about the increased cost of fertilizer. Mr. Smith responded that many dairy and poultry farmers are being encouraged to use BMPs to deal with excess animal waste that is not used as fertilizer.

John Warren, Osage Bio Energy

John Warren discussed Osage's plans for producing ethanol using barley, which offers several useful byproducts, including barley protein meal and fuel pellets. Mr. Warren's presentation contains several estimates on the benefits to Virginia, which includes new jobs, environmental benefits, and tax revenue. One of the major benefits of using barley is that its use will have little to no impact on food supplies. One of the major challenges for Osage has been generating local interest among farmers in growing barley. Osage is prepared to import the barley it needs, but the ultimate goal is to have all barley production come from within the state. The Hopewell plant is scheduled to go on-line in the second quarter of 2010 with construction expected to start by the end of 2008.

Senator Petersen inquired where in the state would sufficient barley production be. Mr. Warren responded that the eastern part of the state is the best place to grow barley. The main goal is have current soybean farmers add barley to their crop rotation.

Ann Swanson, Chesapeake Bay Commission

Ann Swanson provided an overview of the Commission's recent report entitled *Biofuels and the Bay*. One of the important data points in the report was an analysis on the impact of different biofuel crops on pollution levels in the Chesapeake Bay. Although the addition of corn and soybean crops would add nitrogen to the Bay, expanded use of switchgrass and cover crops, such as barley, results in a net reduction in nitrogen input

to the Bay. Using a combination of switchgrass and cover crops could result in two-thirds of the targeted nutrient reductions.

Mrs. Swanson also highlighted information from the Commission's report on the potential for the Bay region to take a national lead on cellulosic biofuel production. One of the major factors that makes Virginia well-positioned to pursue cellulosic ethanol production is the fact the Virginia is one of the only significant corn-producing states that is not committed to corn-based ethanol production. Mrs. Swanson proposes the Bay region focus on three pillars: feedstock, natural resource protection, and marketing and infrastructure. Mrs. Swanson highlighted potential steps to help the Bay region move towards becoming a leader in cellulosic biofuel production.

Senator Petersen asked whether the Bay Commission had been able to rally environmental groups with the Commission's recently released reports. Mrs. Swanson stated that she has had positive feedback and the reports are gaining recognition.

Dr. Victor Fischer, Virginia Tech

Dr. Fischer provided the Commission with an overview of cellulosic biofuels, including ethanol and green diesel. Dr. Fischer highlighted key national policies that are moving the industry towards cellulosic biofuels. A major factor driving the push for biofuels is the need for greater confidence in national security.

Dr. Fischer next discussed the cellulosic ethanol production process developed by Virginia Tech (VT) that can produce ethanol at \$1.36-\$1.56 per gallon. The VT process is also more efficient in converting the sugar in organic matter to ethanol.

Dr. Fischer also explained the type and value of the byproducts resulting from green diesel production using the new process developed at Virginia Tech. One byproduct, phenol, is worth almost twice that of the green diesel on a per volume basis.

Senator Petersen inquired as to what the General Assembly could do to help VT commercialize this technology. Dr. Fischer said that he can make green diesel out of old tires. Dr. Fischer suggested taking the money in the tire recycling fund to build a demonstration plant and then use the tires as a feedstock.

Dr. Fischer suggests that the next step will be a pilot plant, followed by a commercial size demonstration plant, followed by full commercial plant. Dr. Fischer estimates that in five years he could have a fully replicable commercial plant.

Mr. Wallmeyer stated that the Commonwealth should fund and operate a pilot plant and a demonstration plant. Mrs. Swanson stated that she has heard from entrepreneurs that the Commonwealth needs to fund a pilot plant to prove the concept is lucrative for private investment.

Dennis J. Sulick, Virginia Biodiesel Refinery

Dennis Sulick provided the Commission with a presentation on biodiesel production in Virginia. Mr. Sulick noted that for every dollar spent on biodiesel approximately \$.90 stays in Virginia, compared to \$.13 for petroleum diesel. Mr. Sulick also stated that for every million dollars spent on biodiesel production in the state, an additional \$2-\$3 million of economic activity is created. Mr. Sulick recommends that the Commission work to encourage the use of biodiesel in school buses and strengthen producer incentives in the state.

Dr. Dennis Hatcher, Old Dominion University

Dr. Hatcher spoke on the potential for algae as a feedstock for biofuel production. The main attribute of algae that makes it so lucrative is its oil content and reproduction cycle. Another benefit is that algae growth can be coupled with other industrial processes to achieve greater economic and environmental benefits. Algae require carbon dioxide, nitrates, and phosphates to grow and reproduce. These same compounds are detrimental to the air, soil, and water.

Dr. Hatcher reviewed ODU's first pilot facility as well as a recently constructed demonstration plant in Hopewell, VA. Dr. Hatcher offered the Commission members a tour of some of the labs working in algae biofuels research.

Next Meeting

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

Commission on Energy and Environment

SENATOR MARY MARGARET WHIPPLE, CHAIR

Ellen Porter, DLS Staff
Patrick Cushing, DLS Staff

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SMALL BUSINESS COMMISSION *10-21-08*

The Commission met in Richmond and was presided over by the Commission's co-chairmen, Delegate Jeffrey M. Frederick and Senator W. Roscoe Reynolds.

Presentations

The Honorable Marilyn B. Tavenner, Secretary of Health and Human Resources

Secretary Tavenner presented an overview of the VirginiaShare Health Insurance Program. VirginiaShare was designed to provide affordable health insurance to over 6,000 small businesses and 15,000 low-income, uninsured employees in Virginia. Small businesses that employ between two and 50 employees and employees of these businesses who were working at least 30 hours per work, have not had health insurance during the past six months, and who earned less than 200 percent of the federal poverty level would have been eligible to participate in VirginiaShare.

Secretary Tavenner then described the mechanics of VirginiaShare. The program would subsidize the purchase of health insurance under a three-share financing approach in which the employer, the employee, and the Commonwealth would pay one-third of the monthly insurance premium. It was expected that each party's share would be approximately \$60 per month.

VirginiaShare was proposed by the Governor as a pilot program in which state funds would be used in conjunction with funds provided by the Riverside Foundation to pay for the subsidy. Secretary Tavenner noted that although the VirginiaShare program was ultimately not enacted, the Riverside Foundation has continued with a version the program, committing \$1,000,000 over two years.

Delegate Daniel W. Marshall III

Delegate Marshall spoke to the Commission about "mandate-lite" health insurance policies. "Mandate-lite" policies are insurance policies that are not required to provide coverage for some or all of the mandated health insurance benefits contained in the Virginia Code.

In 2007, Delegate Marshall introduced House Bill 3160 which provided for the sale of "mandate-lite" policies, but placed certain restrictions on them. The "mandate-lite" plans would only be available to small businesses who employ between two and 50 employees. Delegate Marshall also noted that in order to prevent employers who currently offer more comprehensive health insurance from replacing those plans with a "mandate-lite" policy, only employers who had not offered health insurance during the preceding six months would be eligible to purchase such policies. Delegate Marshall explained that his bill would allow the insurance companies to determine what mandated benefits should or should not be included in the "mandate-lite" policies.

In response to Delegate Oder's question regarding who would be opposed to offering "mandate-lite" plans, Mr. Mark Pratt of Anthem Blue Cross and Blue Shield stated that the interest groups who supported each individual mandated benefit as well as the providers who administer those benefits would be the likely opposition. Senator Barker expressed concern that businesses that offered "mandate-lite" policies would have no incentive to move up to more comprehensive coverage.

Delegate Oder moved that the Commission endorse Delegate Marshall's bill in concept, but delay a final vote until those opposed to the bill could be given a chance to speak at the next meeting. Delegate Janis offered a substitute motion, which passed, that the Commission vote to endorse the bill in concept.

Doug Gray, Executive Director of the Virginia Association of Health Plans also spoke to the Commission about "mandate-lite" policies. He noted that other states allow the sale of such policies and have met with varying degrees of success. Mr. Gray also stressed that the effect of "mandate-lite" policies on premiums and the potential marketplace for plans were unknown. He stated that there are concerns that the cost to administer plans may exceed the potential size of the marketplace.

Stephen W. Bowman, Joint Commission on Health Care

Stephen Bowman 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 and may allow for employee savings between 25 and 40 percent per dollar contributed toward health insurance. Such plans may also result in a decreased tax liability for employers through lower payroll taxes as employees' use of pre-tax dollars serves to reduce the employer's taxable payroll.

Mr. Bowman noted that there are some limitations on Section 125 plans. These plans make health insurance more affordable, but will not help employees who do not make enough to afford insurance. Additionally, employers who pay 100 percent of the insurance premiums for their employees cannot benefit from these plans.

Mr. Bowman stated that in Virginia, 58 percent of employers with less than 50 employees do not offer Section 125 plans while only eight percent of employers with more than 100 employees do not. Mr. Bowman then addressed why more businesses have not adopted Section 125 plans, citing a lack of knowledge of their existence, a misperception of the cost, time and administrative burden in establishing plans, and the possibility of tax consequences if the plan is not correctly set up.

Mr. Bowman then presented several policy options for dealing with Section 125 plans that will be considered by the Joint Commission on Health Care at its meeting held on November 24, 2008. The Commission agreed to consider the recommendations made by the Joint Commission on Health Care and directed staff to work

with Mr. Bowman in preparing a letter to the Department of Human Resources Management that will be considered at the Commission's next meeting. Lynda Sharp Anderson, Director of the Virginia Department of Business Assistance, stated her willingness to cooperate with posting information relating to Section 125 plans on its business portal website.

Member Discussion and Work Plan

In addition to its directions concerning "mandate-lite" insurance plans and Section 125 plans, the Commission considered a motion that it resolve that no additional insurance mandates should be enacted during the 2009 Session of the General Assembly. This motion was adopted.

Next Meeting

The Commission plans to hold one more meeting prior to the start of the 2009 Session of the General Assembly. The next meeting date will be posted on the Commission's website and the General Assembly website as soon as information is available.

Small Business Commission

SENATOR W. ROSCOE REYNOLDS, CO-CHAIR
DELEGATE JEFFREY FREDERICK, CO-CHAIR

David Cotter, DLS Staff

910 Capitol Street
General Assembly Building, 2nd Floor
Telephone (804) 786-3591

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

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

Complete information on all Commissions and Advisory Councils, as well as ongoing Interim Studies staffed by Legislative Services may be found on the DLS website at:

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

Commission Meeting Calendar for November - December '08

| <i>Commission Name</i> | <i>Meeting Information</i> | <i>DLS Staff</i> |
|---|--|--|
| Disability Commission | 1:00 p.m., Thursday, November 6, 2008 GAB Bldg, House Room D | Jessica Eades Nicole Cheuk |
| Virginia Sesquicentennial of the American Civil War Commission, Executive Committee | 10:00 a.m., Monday, November 17, 2008 GAB Bldg, 6th Floor Conference Room | Cheryl Jackson Brenda Edwards Danielle Watkins |
| Virginia Housing Commission | For ongoing meeting information see website at: http://dls.virginia.gov/HousComm.htm | Elizabeth Palen |

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

REGULATORY ALERT

A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH

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

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

TITLE 2. AGRICULTURE

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

2VAC5-200. Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry (amending 2VAC5-200-10, 2VAC5-200-20, 2VAC5-200-30, 2VAC5-200-50, 2VAC5-200-60).

A public hearing will be held on December 4, 2008 at 10 a.m. in the Oliver Hill Building, Virginia Department of Agriculture and Consumer Services, Richmond, VA. Written public comments may be submitted until December 26, 2008.

Summary:

The proposed regulation amends the acceptable methods of carcass disposal to permit composting or other methods approved by the State Veterinarian; adds language on provisions governing composting; and amends the requirement to file disposal plans. The substantive changes proposed by this action include adding "composting" as a method of disposing of poultry destroyed to prevent the spread of an infectious or contagious disease; amending the definitions of "incinerator" and "landfill" to mirror definitions in the Code of Virginia; removing the definition of "infectious and contagious disease"; amending the definition of "person" to remove the terminology "for profit" (as well as removing this terminology from other locations within the proposed regulation) to reflect that the regulation applies not only to for-profit operations, but also to those that are not-for-profit.

For more information, please contact Colleen Calderwood, DVM, Program Manager, Department of Agriculture and Consumer Services, Richmond, VA 23218, telephone (804) 786-2483, FAX (804) 371-2380, or email colleen.calderwood@vdacs.virginia.gov.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

4VAC25-40. Safety and Health Regulations for Mineral Mining (amending 4VAC25-40-25, 4VAC25-40-90, 4VAC25-40-120, 4VAC25-40-130, 4VAC25-40-190, 4VAC25-40-260, 4VAC25-40-350, 4VAC25-40-410, 4VAC25-40-720, 4VAC25-40-780, 4VAC25-40-800, 4VAC25-40-810, 4VAC25-40-880, 4VAC25-40-890, 4VAC25-40-1600, 4VAC25-40-2790, 4VAC25-40-2800, 4VAC25-40-2980, 4VAC25-40-3800, 4VAC25-40-3830, 4VAC25-40-3840, 4VAC25-40-3990, 4VAC25-40-4060, 4VAC25-40-4240, 4VAC25-40-4260, 4VAC25-40-4400; adding 4VAC25-40-365, 4VAC25-40-893, 4VAC25-40-925, 4VAC25-40-1095, 4VAC25-40-4061, 4VAC25-40-4062, 4VAC25-40-4063, 4VAC25-40-4064, 4VAC25-40-4065, 4VAC25-40-4066; repealing 4VAC25-40-3050 through 4VAC25-40-3090, 4VAC25-40-3110, 4VAC25-40-3120).

A public hearing will be held on November 12, 2008 at 10 a.m. at the Department of Mines, Minerals and Energy, Charlottesville, VA. Written public comment may be submitted until 5 p.m. on December 26, 2008.

Summary:

As a result of a periodic review, the Department of Mines, Minerals and Energy (DMME) is amending 4VAC25-40, Safety and Health Regulations for Mineral Mining. The amendments improve this chapter by making technical corrections, clarifying unclear language, updating references, making the regulation internally consistent and consistent with the Code of Virginia, and strengthening certain provisions relating to mine safety. Sections to be strengthened relate to blasting, mine rescue, and construction and maintenance of mine structures.

For more information, please contact David Spears, Regulatory Coordinator, Department of Mines, Minerals and Energy, Richmond, VA, telephone (804) 692-3212, FAX (804) 692-3237, or email david.spears@dmme.virginia.gov.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

REGISTRAR'S NOTICE: The following regulation filed by the Virginia Soil and Water Conservation Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the Virginia Soil and Water Conservation Board pursuant to the Virginia Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

4VAC50-60. Virginia Stormwater Management Program (VSMP) Permit Regulations (amending 4VAC50-60-10, 4VAC50-60-1100 through 4VAC50-60-1190; adding 4VAC50-60-1182, 4VAC50-60-1184, 4VAC50-60-1186, 4VAC50-60-1188).

The following public hearings will be held:

December 2, 2008 at 7 p.m. - City of Manassas Council Chambers, Manassas, VA

December 3, 2008 at 7 p.m. - City of Roanoke Council Chambers, Noel C. Taylor Municipal Building, Roanoke, VA

December 10, 2008 at 7 p.m. - City of Williamsburg Council Chambers, 412 North Boundary Street, Williamsburg, VA

Written public comment may be submitted until 5 p.m. on December 26, 2008.

Summary:

This regulatory action amends the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations by developing a new General Permit for Stormwater Discharges from Construction Activities and amending associated definitions contained in Part I of the regulations. Regulations developed under the federal Clean Water Act (33 USC § 1251 et seq.) and Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia require that VSMP permits be effective for a fixed term not to exceed five years (§ 10.1-603.2:2 B) of the Code of Virginia. The existing five-year general permit was issued on July 1, 2004, thus necessitating the promulgation of a new general permit by the June 30, 2009, expiration date.

For more information, please contact David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, Richmond, VA, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

12VAC5-120. Regulations for Testing Children for Elevated Blood-Lead Levels (amending 12VAC5-120-10, 12VAC5-120-30; adding 12VAC5-120-35).

A public hearing will be held on December 10, 2008 at 10 a.m. at the Madison Building, Richmond, VA. Written public comment may be submitted until 5 p.m. on December 26, 2008.

The proposed amendments permit the use of the Clinical Laboratory Improvement Amendments (CLIA)-waived instruments for point-of-care testing to screen for elevated blood-lead levels, provided any elevated blood-lead level is followed up with a venous blood-lead test performed by a qualified laboratory. The proposed amendments also require health care providers to make information available on the dangers of lead poisoning, along with a list of available resources, to parents as part of regular well-check visits for all children up to 72 months of age.

For more information, please contact Nancy Van Voorhis, Director, Lead Safe Virginia, Department of Health, Richmond, VA, telephone (804) 864-7694, or email nancy.vanvoorhis@vdh.virginia.gov.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

12VAC35-190. Regulations Establishing Procedures for Voluntarily Admitting Persons Who Are Mentally Retarded to State Mental Retardation Facilities (amending 12VAC35-190-10, 12VAC35-190-21, 12VAC35-190-30, 12VAC35-190-41, 12VAC35-190-51).

Written public comment may be submitted until December 26, 2008.

Summary:

This action revises the statutory references to reflect the recent recodification of Title 37.1 to Title 37.2 of the Code of Virginia. Changes have been made to definitions of "authorized representative," "case management community services board," "mental retardation" and several other terms for clarity and consistency with the Code of Virginia and other regulations of the board. The application process and requirements are revised to require that the diagnosis of mental retardation be made by a "licensed professional," which has been defined in the regulations. The required timeframe for a decision on a request for admission has been reduced from 30 to 10 working days from the date of receipt of the completed application package.

For additional information, please contact Dawn Traver, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, Richmond, VA, telephone (757) 253-4316, FAX (757) 253-5440, or email dawn.traver@co.dmhmr.sas.virginia.gov.

TITLE 18.
PROFESSIONAL AND
OCCUPATIONAL LICENSING

**BOARD OF AUDIOLOGY AND SPEECH-
LANGUAGE PATHOLOGY**

18VAC30-20. Regulations Governing the Practice of Audiology and Speech-Language Pathology (amending 18VAC30-20-160; adding 18VAC30-20-185).

Written public comment may be submitted until 5 p.m. on December 12, 2008.

Summary:

The amendments allow an applicant whose license has been lapsed for five or more years to apply for reinstatement based on documentation of meeting current requirements for education, examination and certification or documentation of a current license in another jurisdiction in the United States and evidence of active practice for at least three of the past five years. If an applicant for reinstatement in audiology cannot meet the current licensure requirements or cannot document current licensure and active practice for three years, a third option is provided in the amended regulation. The applicant who has the educational qualifications and has passed the examination may be granted a provisional license and practice under supervision for six months and must be recommended for licensure by his supervisor.

New regulations for licensure by endorsement mirror the provisions for reinstatement of a lapsed Virginia license as evidence of current competency to practice.

For more information, please contact Lisa R. Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, Richmond, VA, telephone (804) 367-4630, FAX (804) 527-4413, or email lisa.hahn@dhp.virginia.gov.

BOARD OF COUNSELING

18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy (amending 18VAC115-50-40, 18VAC115-50-60).

A public hearing will be held on November 13, 2008 at 1 p.m. at the Department of Health Professions, Perimeter Center, Richmond, VA. Written public comment may be submitted until December 26, 2008.

Summary:

The requirements for a residency in marriage and family therapy are amended to specify that at least 100 of the required 200 hours of face-to-face supervision must be provided by a person holding a license as a marriage and family therapist. The requirements for licensure by endorsement are amended to repeal the

provision that allows a person holding a license as a licensed professional counselor to be licensed by endorsement without taking and passing the national examination in marriage and family therapy.

For more information, please contact Evelyn B. Brown, Executive Director, Board of Counseling, Richmond, VA 23233, telephone (804) 367-4488, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

BOARD OF PHARMACY

18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-10, 18VAC110-20-20 through 18VAC110-20-70, 18VAC110-20-80 through 18VAC110-20-104, 18VAC110-20-106 through 18VAC110-20-120, 18VAC110-20-130, 18VAC110-20-140, 18VAC110-20-180 through 18VAC110-20-210, 18VAC110-20-240, 18VAC110-20-270, 18VAC110-20-275, 18VAC110-20-280, 18VAC110-20-320, 18VAC110-20-340, 18VAC110-20-350, 18VAC110-20-355, 18VAC110-20-395, 18VAC110-20-410, 18VAC110-20-425, 18VAC110-20-440, 18VAC110-20-450, 18VAC110-20-460, 18VAC110-20-490, 18VAC110-20-500, 18VAC110-20-520 through 18VAC110-20-555, 18VAC110-20-570, 18VAC110-20-580, 18VAC110-20-590, 18VAC110-20-610, 18VAC110-20-620, 18VAC110-20-621, 18VAC110-20-622, 18VAC110-20-680 through 18VAC110-20-710, adding 18VAC110-20-286, 18VAC110-20-391, 18VAC110-20-535, 18VAC110-20-536).

Written public comment may be submitted until 5 p.m. on December 12, 2008.

Summary:

The agency is amending regulations to address the numerous questions and recommendations that arose from the periodic review conducted by board members and advisors from all aspects of pharmacy practice. In some cases, there is a need for clarification of a rule; in others there is a need to amend the regulation to allow the practice of pharmacy to be more responsive to patient needs and changing times.

Some of the issues addressed include: (i) practical experience leading up to licensure by allowing interns to count hours within the school curriculum and by clearly delineating expiration dates for internships; (ii) oversight of continuing education approval by setting expiration dates for courses; (iii) guidance for free clinics to allow greater access to areas where drugs are kept; (iv) oversight of pharmacy technician training by setting a time limit on work by a person engaged in a program and an expiration for programs approved by the board; and (v) elimination of board approval of robotic systems by incorporating criteria for such systems in regulation.

For more information, please contact Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Richmond, VA, telephone (804) 367-4456, FAX (804) 527-4472, or email scottirussell@dhp.virginia.gov.

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF REHABILITATIVE SERVICES

22VAC30-40. Protection of Participants in Human Research (amending 22VAC30-40-10, 22VAC30-40-30 through 22VAC30-40-150; adding 22VAC30-40-160).

Written public comment may be submitted until December 27, 2008.

Summary:

These regulations provide a basis for the Department of Rehabilitative Services (DRS) to oversee human subjects research involving the Department of Rehabilitative Services, the Woodrow Wilson Rehabilitation Center, sheltered workshops, and independent living centers. The proposed amendments: (i) make minor changes in language to ensure consistency with 45 CFR 46.101 et seq.; (ii) change the definition of sheltered workshop so that only those vocational rehabilitation service programs that have a vendor relationship with the department and are not operated by a community services board are covered by this regulation; (iii) provide that independent living centers and sheltered workshops no longer have the option to establish their own human research review committee or to affiliate with other centers or workshops to establish a central human research committee but are required to affiliate with the DRS human research review committee; (iv) change the procedures for obtaining the informed written consent of prospective research subjects to ensure consistency with the requirements of federal regulations; (v) change the composition of the human research review committee that reviews research proposals to determine if they meet the requirements of this regulation to ensure consistency with federal requirements; (vi) add a new section that governs the inclusion of minors as research subjects; and (vii) change procedures for expedited review and the description of research that may receive expedited review to reflect existing federal regulations.

For additional information, please contact S. Rakestraw, Policy Analyst, Department of Rehabilitative Services, Richmond, VA, telephone (804) 662-7612, FAX (804) 662-7696, or email vanessa.rakestraw@dss.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

22VAC40-35. Virginia Independence Program (amending 22VAC40-35-10, 22VAC40-35-20, 22VAC40-35-40 through 22VAC40-35-120, 22VAC40-35-130; repealing 22VAC40-35-5, 22VAC40-35-125, 22VAC40-35-126, 22VAC40-35-127, 22VAC40-35-128).

Written public comment may be submitted until December 12, 2008.

Summary:

The proposed amendments eliminate references to the obsolete Virginia Targeted Jobs Grant (VTJG) program and corresponding statutory citations, and replace applicable references to the Aid to Families with Dependent Children (AFDC) with Temporary Assistance for Needy Families (TANF). The proposed amendments also (i) update statutory references, (ii) reduce the allowable processing time for TANF applications from 45 days to 30 days, (iii) revise the definition of "job search" to reflect a federal requirement that states count hours spent searching for jobs rather than number of job searches, (iv) align exemptions from the Virginia Initiative for Employment Not Welfare (VIEW) with those listed in state code, (v) expand opportunities for hardship exceptions in the TANF program, (vi) allow greater participation in educational activities when participating in community work experience, and (vii) set limits on the number of paternity tests (per child) for which the Division of Child Support Enforcement (DCSE) will pay.

For more information, please contact Mark L. Golden, TANF Program Manager, Department of Social Services, Division of Benefit Programs, Richmond, VA, telephone (804) 726-7385, FAX (804) 726-7356, or email mark.golden@dss.virginia.gov.

22VAC40-410. Entitlement Date in the General Relief Program (repealing 22VAC40-410-10, 22VAC40-410-20).

22VAC40-411. General Relief Program (adding 22VAC40-411-10 through 22VAC40-411-220).

22VAC40-570. General Relief (GR) Program - Locality Options (repealing 22VAC40-570-10 through 22VAC40-570-100).

22VAC40-640. General Relief Program - Deeming Income from Alien Sponsors (repealing 22VAC40-640-10 through 22VAC40-640-80).

Written public comment may be submitted until December 12, 2008.

Summary:

The General Relief Program provides assistance to individuals who are not eligible for other forms of assistance and is an optional program at the local level. The proposed regulation defines the different types of assistance available, how income and resources are evaluated for aliens, how recipients can receive assistance through the disability advocacy project, and establishes the date for which eligibility for general relief begins. This action combines the provisions of four existing regulations into one comprehensive set of rules for the General Relief Program.

For additional information, please contact Mark Golden, TANF Program Manager, Department of Social Services, Richmond, VA, telephone (804) 726-7385, FAX (804) 726-7356, or email mark.golden@dss.virginia.gov.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF TRANSPORTATION

24VAC30-73. Access Management Regulations: Minor Arterials, Collectors, and Local Streets (adding 24VAC30-73-10 through 24VAC30-73-170).

The following public hearings will be held:

October 28, 2008 at 1 p.m. - (Richmond) John Tyler Community College, Chester, VA

October 30, 2008 at 1 p.m. - (Staunton) Augusta County Government Center, Verona, VA

November 5, 2008 at 10 a.m. - (Northern Virginia) Virginia Department of Transportation, Northern Virginia District Office, Chantilly, VA

November 12, 2008 at 1 p.m. - (Dublin) New River Community College, Dublin, VA

Written public comment may be submitted until December 15, 2008.

Summary:

This action promulgates a new regulation; however, the proposed regulation carries over and consolidates existing regulations in the Minimum Standards of Entrances (24VAC30-71) and the entrance regulations in the Land Use Permit Manual (24VAC30-150). Items appearing in the Minimum Standards such as entrance illustrations and sight distance standards are relocated to the Road Design Manual and incorporated by reference.

Significant proposed changes are as follows:

- 1. The definition of "private entrance" is revised to include entrance to agricultural fields and entrance to communication infrastructure that generate 10 or fewer trips per day such as cell towers, pump stations, and stormwater management basins.*
- 2. The proposed regulation establishes that the Department of Transportation (VDOT) will permit reasonably convenient access to a parcel of record, but that VDOT is not obligated to permit the most convenient access or the permit applicant's preferred entrance location or entrance design.*
- 3. Drainage pipes where private entrance driveways meet public roads will no longer be installed by VDOT at no cost. The property owners will be responsible for the installation of the pipes.*

4. A deadline is included for VDOT to make a decision on an appeal from the entrance permit applicants.

5. A grandfather provision is included that locations of entrances that are approved prior to the effective date of the proposed regulations shall remain valid.

6. The proposed regulation requires that the permit applicant contact the local government to identify possible conflicts with local, state, or federal regulations and plans.

7. The proposed regulation adds a few requirements to the commercial entrance access management, including requirements on shared entrances, spacing of entrances and intersections, vehicular/pedestrian circulation between adjoining undeveloped properties, and traffic signal spacing.

8. The proposed regulation requires additional signage and certified flaggers for temporary entrances in the event that adequate sight distance is not achieved.

For more information, please contact Paul Grasewicz, AICP, Access Management Program Administrator, Department of Transportation, Maintenance Division, Richmond, VA, telephone (804) 786-0778, FAX (804) 662-9405, or email paul.grasewicz@vdot.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

24VAC20-81. Hauling Permit Regulation (adding 24VAC20-81-10 through 24VAC20-81-250).

The following public hearings are scheduled:

November 4, 2008 at 1 p.m. - Virginia Department of Motor Vehicles, Richmond, VA

November 21, 2008 –at 1 p.m. - Mary D. Pretlow Library, Norfolk, VA

Written public comment may be submitted until December 27, 2008.

Summary:

The Department of Motor Vehicles is responsible for the issuance of oversize and overweight permits for the movement of objects and vehicles that exceed the statutory limits set forth in the Code of Virginia. The proposed regulation is a new regulation that will contain the Hauling Permit Manual. This manual establishes the requirements for the issuance of hauling permits and the movement of these objects and vehicles over the highways of the Commonwealth of Virginia.

For more information, please contact Ron Thompson, Senior Policy Analyst, Department of Motor Vehicles, Richmond, VA, telephone (804) 367-1844, FAX (804) 367-6631, or email ronald.thompson@dmv.virginia.gov.

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