

Virginia Legislative Record

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Virginia Division of Legislative Services

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Brown v. Board of Education Scholarship Committee

August 22, 2012

The first meeting of the *Brown v. Board of Education* Scholarship Committee (Committee) for the 2012 interim was held on August 22, 2012, in Richmond to review and make recommendations regarding scholarship applications submitted for the 2012-2013 academic year.

Administrative Staff Support and Election of Officers

Given the transfer of administrative staff support for the Committee from the House Clerk's Office to the Senate Clerk's Office, elections for chair and vice chair were conducted. Delegate Rosalyn R. Dance was re-elected chair and Senator Henry L. Marsh III was elected vice chair.

Staff Briefing

Staff updated the Committee concerning the need to amend the Committee's policies to address awards to graduate students who are not required by their institutions to attend classes while engaged in writing their theses or dissertations. Preliminary information indicated that each institution of higher education has different requirements. The scholarship award covers tuition and fees and provides a maximum book allowance. However, some institutions assess graduate students certain fees and costs while others do not. The Committee determined that graduate students in the thesis or dissertation term would be permitted to use the book allowance to cover the cost of books and other fees associated with researching, writing, and publishing the thesis and dissertation. The Committee agreed that its

policies would be amended to reflect this change.

The Committee reviewed how online courses are charged to the *Brown v. Board of Education* Scholarship Program (Program) by institutions of higher education. While the Program disburses funds once during the fall, spring, and summer terms, some colleges have online programs that are organized according to the block system (e.g., series of weeks), which results in students being billed several times during the traditional fall or spring term, depending upon the program requirements. This approach to billing conflicts with the Committee's fund disbursement process and causes confusion and frustration among students concerning the sufficiency of their award to meet academic costs. To address disbursement, billing, and other payment problems as they may arise, the Committee clarified that staff was authorized to settle problems with institutions and approve payment of awards throughout the academic year.

Lee Andes, State Council of Higher Education for Virginia

Mr. Andes provided the Program Accounting Summary, which indicated that 23 students were awarded scholarships during the 2011-2012 academic year. The scholarship awards totaled \$885,359 in 2011-2012, leaving a balance of \$1,343,435.

Preparation for 2012-2013 Application Cycle

Staff was asked to begin the preparations for the next application cycle in 2012-2013, including revisions to the application packet, advertisements, distribution sites, training, and public information sessions.

Executive Session

The Committee voted to go into executive session, pursuant to subdivision 37 of § 2.2-3711 of the *Code of Virginia*, to

discuss and consider matters pertaining to the *Brown v. Board of Education* Scholarship Program excluded from public discussion under this section.

Applicants Approved for 2012-2013 Academic Year

The Brown v. Board of Education Scholarship Committee approved 27 applicants for undergraduate and graduate school during the 2012-2013 academic year.

The Committee approved 27 applicants for undergraduate and graduate school during the 2012-2013 academic year. Other persons who are ineligible for the Program were notified of their ineligibility by staff. This year marks the seventh year of the Program; therefore, certain efforts have been made to encourage and move applicants to more independence and self-sufficiency and to greater compliance with Program policies.

Next Meeting

Certain Committee members have been appointed by the chair to serve on the Dr. Martin Luther King, Jr. Memorial Commission's Special Subcommittee on Public School Closings (Massive Resistance) in Virginia, which will meet on October 23, 2012, in Manassas. The next meeting of the *Brown v. Board of Education* Scholarship Committee will be posted on the Committee and General Assembly websites as soon as information is available.

BROWN V. BOARD OF EDUCATION SCHOLARSHIP COMMITTEE

DELEGATE ROSALYN DANCE, CHAIR
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Other Legislative Commissions

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

Joint Legislative Audit and Review Commission

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

Virginia State Crime Commission

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

Joint Commission on Health Care

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

Virginia Commission on Youth

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

Virginia Freedom of Information Advisory Council

September 5, 2012

Senator Stuart, chair, began the Virginia Freedom of Information Advisory Council (the Council) meeting by welcoming Christopher Ashby, Esq., as the newest member. Mr. Ashby replaces Craig Fifer, who served two full four-year terms on the Council.

Subcommittee Reports

Kathleen Dooley, chair of the Electronic Meetings Subcommittee, reported that the Subcommittee had met three times to consider HB 1105 (2012) and HB 1149 (2012) and planned to meet again in October. The Subcommittee had no recommendation at this time, but had asked staff to prepare a draft for consideration at its next meeting.

John Selph, chair of the Criminal Investigative Records Subcommittee, reported that the Subcommittee had met twice and planned to meet again in October. The Subcommittee had a thorough discussion of the issues and had asked staff to prepare a draft for consideration at its next meeting, but had no recommendation at this time. He indicated the draft did not intend to change the substance of current law, but was to reorganize and clarify the law for better understanding and compliance.

Forrest Landon, chair of the Parole Board Subcommittee, reported that the Subcommittee held its first meeting in July to consider HB 397 (2012). The Subcommittee recommended that the patron and supporters of the bill meet with representatives of the Parole Board, as it was unclear to the Subcommittee what was the purpose of the bill in light of current law requiring certain disclosures from the Parole Board. Bill Muse, chair of the Parole Board, and Delegate Hope met and agreed that they could work together to craft future legislation. In light of that agreement, there appears to be no further reason for the Subcommittee to meet.

Other Business

Use of Subcommittees

A discussion ensued about how Council members felt about the use of subcommittees to study bills referred to the Council. Members cit-

ed the informality that helps build consensus and the ability to have a large number of interested parties speak on complex topics. It was also noted that all members of the Council should be ready and informed on the issues.

License Plate Readers

Staff brought the issue of license plate readers to the Council's attention. Various law-enforcement agencies across the state and the nation have technology that automatically reads and stores information about passing vehicles. Staff noted that the concern is more about over-collection of information, length of retention, and potential misuse, rather than access under FOIA.

Violation of FOIA

Megan Rhyne, Executive Director of the Virginia Coalition for Open Government, informed the Council that a judge had imposed fines for a knowing and willful violation of FOIA. She indicated that this was only the second such imposition in the past 15 years, and that in the prior case, the fines were overturned on appeal to the circuit court.

State Corporation Commission and FOIA

The chair stated that he had received an inquiry as to the status of the State Corporation Commission (SCC) under FOIA. Staff related a brief history of the case law in the Supreme Court of Virginia that culminated in the recent holding that the SCC is not subject to FOIA.

Next Meeting

The next meeting of the Council will be held on Monday, December 17, 2012.



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

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The Virginia Freedom of Information Advisory Council heard updates from its Electronic Meetings, Criminal Investigative Records, and Parole Board Subcommittees.

Administrative Law Advisory Committee

September 13, 2012

The Administrative
Law Advisory
Committee discussed
the promulgation of
emergency regulations.

Chris Nolen, chair, called the meeting to order and welcomed the new members of the Administrative Law Advisory Committee (Committee), Brooks Smith and Jeffrey Gore.

Emergency Regulation Expiration

The chair stated that emergency regulations can be effective for up to one year unless the Governor extends the regulation for six more months. He stated that this issue may need a small workgroup to consider solutions. The chair noted that agencies need to promulgate regulations, and permanent regulations must go through the Administrative Process Act (§ 2.2-4000 et seq. of the *Code of Virginia*). It takes about a year and a half for regulations to be promulgated, so permanent regulations are not promulgated until after the original one-year statutory period of the emergency regulation has already lapsed. This means that there is often a gap between the emergency regulation expiring and the permanent regulation being adopted. The chair stated that the solution to this problem may be as simple as extending the six-month renewal period, but noted that if there are other solutions, members should bring them forward. Emergency regulations must have an end, but there must also be a good faith effort to develop permanent regulations. Mr. Nolen stated that the current way it is working, it is hard for permanent regulations to be promulgated prior to the emergency regulations' expiration. A discussion then ensued about whether the year and a half time frame to promulgate regulations might be too long and what causes that. The chair suggested that the Committee develop a subcommittee to consider the various issues presented and develop options to be presented to the Code Commission, looking at the statute and definition of emergency without the context of trying to press the larger issue of how long it takes to develop permanent regulations.

“Adoption” of a Regulation

The Administrative Law Advisory Committee next considered what constitutes “adoption” of a regulation for purposes of

appealing a regulation. One member explained the issues in three court cases when there was confusion about what constitutes adoption of a regulation for the purposes of appealing a regulation, resulting in reported interruptions of the regulatory process. It was clarified that in two of the three cases discussed, the judge reversed his own opinion. The chair stated that he views this as a procedural issue and not a policy issue and suggested that the Committee create a subcommittee of three to four people to consider solutions to this problem. A member noted that this is an important issue from a practitioner's standpoint as if the adoption occurs before the effective date, then there could be an ongoing problem.

Rule 2A:5

It was noted that Rule 2A:5 had been amended by the Supreme Court of Virginia and that in some unusual circumstances, parties who are unfamiliar with the rules seek default judgments improperly because they are unaware of the amendment. It was stated that a form scheduling the order in the rules would be helpful and would likely cut back on the opportunity for error, but it was unclear whether the Committee needed to consider this problem. A discussion ensued with the chair suggesting that this change be incorporated in training for judges with members.

Update of Hearing Officer Handbook

The chair noted that 18 months earlier, the Committee considered updating the hearing officer handbook. He stated that he does not think the need for updating is as extensive as the previous time that the handbook was updated, but that some minor changes should be made. The chair remarked that the Committee should create a subcommittee to update the handbook and present it to the Supreme Court of Virginia as an updated version for use in its hearing officer training. He clarified that this update is about maintaining the work that the Committee had previously done in updating the handbook, so that the Committee will not have to complete a large overhaul in the future. In response to a question, he stated that there have not been problems with the current version of the handbook, but that the Supreme Court of Virginia was pleased with the first updated version and would like the Committee to continue this process annually.

Next Meeting

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

ADMINISTRATIVE LAW ADVISORY COMMITTEE

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Virginia Code Commission

September 17, 2012

The Virginia Code Commission (Commission) met in Richmond with Senator Edwards, chair, calling the meeting to order.

Civil Penalties

Wenzel Cummings, Division of Legislative Services

Mr. Cummings provided an update on the civil penalties project. He indicated that staff reviewed existing civil penalties throughout the *Code of Virginia* and determined, in consultation with Mr. Tavenner, director of the Division of Legislative Services (DLS), to retrain DLS staff on the proper drafting of civil penalties instead of putting together a bill to correct existing civil penalties. The Commission concurred. A member commented that staff might want to look into the feasibility of drafting a bill to amend Title 1 to address any inconsistencies currently in the *Code*.

The Virginia Code Commission heard an update on the civil penalties project.

Title 33.1 Recodification

Nicole Brenner and Alan Wambold, Division of Legislative Services

Ms. Brenner and Mr. Wambold presented several issues about the Title 33.1 recodification for the Commission's consideration:

- Mr. Wambold indicated staff is still working on a few items with the Virginia Department of Transportation (VDOT), including the definitions and use of the following terms: "highway," "road," and "private road."
- Mr. Wambold explained that the first two chapters of Title 33.2 required an extensive reorganization of existing Title 33.1. Ms. Brenner continued the review by recommending that several sections be retained in Title 15.2 instead of moving them to Title 33.2, to which the Commission agreed.
- Ms. Brenner asked if the Chesapeake Bay Bridge and Tunnel District (§ 33.1-253) should remain an incorporation by reference statute with appropriate updates added or if it should be set out in Title 33.2. The Commission unanimously voted to set out the language in the *Code*.
- In response to Ms. Brenner's inquiry about whether the Federal Highway Reimbursement Anticipation Notes (FRANs) should be codified, the Commission asserted that it would be unusual to put this type of act in

the Code. Rick Walton from the Virginia Department of Transportation advised the Commission that VDOT is not issuing any more FRANs. A motion passed unanimously that FRANs not be included in the Code.

- Ms. Brenner advised that the work group proposes moving the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.) (VHCA) and the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) (PPTA) into new chapters in Title 33.2. The Commission unanimously voted to move the PPTA from Title 56 to Title 33.2 and to leave the VHCA in Title 56.
- Ms. Brenner requested approval to move the Northern Virginia Transportation Authority (§ 15.2-4829 et seq.), the Charlottesville-Albemarle Regional Transit Authority (§ 15.2-7022 et seq.), and the Richmond Metropolitan Authority (§ 15.2-7000 et seq.) to a new chapter in Title 33.2, which the Commission unanimously approved.
- Ms. Brenner asked for guidance from the Commission as to whether the Virginia-North Carolina Interstate High-Speed Rail Compact, which currently is not set out in the *Code of Virginia*, should be included in Title 33.2. The chair deferred the decision to the next meeting to allow staff an opportunity to determine if renumbering a compact is tantamount to making a compact change requiring approval of the other states.
- Ms. Brenner recommended that the Washington Metropolitan Area Transit Regulation Compact (§ 56-529 et seq.) be moved to Title 33.2, which the Commission unanimously approved. A member indicated that there was another Washington Metropolitan Area compact for buses and taxis, the Washington Metropolitan Area Transit Commission, and asked if it would be included, Ms. Brenner will look into that question.
- Lastly on compacts, Ms. Brenner asked if the Commission preferred placing all compacts codified in Title 33.2 together in a single chapter or placing it with the subject matter. The consensus of the Commission is to place each compact by subject matter within Title 33.2. In addition, the compacts will be placed in the compact volume.

Mr. Wambold then reviewed the recodification draft for proposed Chapters 1 and 2 of Title 33.2.

Next Meeting

The next meeting of the Commission will be on November 8, 2012.

VIRGINIA CODE COMMISSION

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

Dr. Martin Luther King, Jr. Memorial Commission

September 17, 2012

The Dr. Martin Luther King, Jr. Memorial Commission (MLK Commission) met at the Amelia County Administration Office. Interviews scheduled for the Virginia Commonwealth University/MLK Commission Massive Resistance Oral History Project were held throughout the day at the same location.

Emancipation Proclamation Music Work Group

Led by Delegate Jennifer McClellan, vice chair, the Emancipation Proclamation Music Work Group (Work Group) received and discussed reports from its several subcommittees concerning the concert with the Richmond Symphony on April 13, 2013. Work Group members reviewed the feedback received by staff regarding the program, format, participants, publicity, educational components, and budget template by representatives of the Richmond Symphony. A preliminary list of potential narrators, artists, and sponsors was discussed and developed. The suggested program format was agreed upon as well as the decision to request a review of the Civil War music collection of the Virginia Historical Society for possible exhibit purposes. The Work Group recommended to the MLK Commission that the participation of the choral groups of certain senior institutions of higher education be solicited for the concert. Topics for the next meeting include musical selections for the program, potential national and state narrators and artists who will be invited to participate, list of potential sponsors and level of giving with benefits, proposed budget, fundraising goal and schedule, and itemization and coordination of related matters with other subcommittees and report of recommendations to the MLK Commission.

MLK Commission and Subcommittees Meeting

The MLK Commission's staff submitted a report summarizing activities since its December 5, 2011, meeting, which included the following:

- Efforts to preserve the Lincoln Homestead in Rockingham County, Virginia.

- Support of the Lincoln Society of Virginia's annual Lincoln Cemetery Program on February 12, 2012.
- The Exhibit of the 13th Amendment, a partnership between the MLK Commission and the Virginia Historical Society, held on April 14-15, 2012.
- Representation at the August 3, 2012, meeting of the National Endowment for the Humanities (NEH) concerning the 150th Commemoration of the Emancipation Proclamation and at the NEH Watch Party on September 17, hosted by the Virginia Historical Society.
- Launch of the MLK Commission's new website on August 31, 2012.
- Purchase of the DVDs containing the oral histories collected by the Amherst Glebe Arts Response, Inc., of students, teachers, administrators, counselors, and public officials who attended the formerly all-Black schools and/or were otherwise involved in the desegregation of the schools.
- Coordination and planning meeting with the House and Senate Clerks regarding the unveiling ceremony for African American Legislators commemorative plaques in the State Capitol.
- Determination and scheduling of sesquicentennial of the Emancipation Proclamation signature events.

The staff reviewed the MLK Commission's new website, walking members through the content and highlighted its crowning achievement, the beginning of the African American Legislators database that the MLK Commission began in 2004. The database will be housed on the MLK Commission's website. Although the database will include all African Americans ever elected to the Virginia General Assembly, in deference to the 150th anniversary of the Emancipation Proclamation in 2013, legislation was enacted by the 2012 Session (SJR 13 and HJ 65), to honor and recognize the African American men who served in the Virginia Constitutional Convention of 1867-1868 and who were elected to the Virginia General Assembly during Reconstruction.

Staff also notified the MLK Commission of three new assignments that have been added to its work plan.

- During the 2012 Session, the House Committee on Rules directed the MLK Commission to address the issues in HB 527 (2012), which was not reported, pertaining to the contemporary political, economic, educational, and societal issues and public policies

The Dr. Martin Luther King, Jr. Memorial Commission reviewed its new website, which will contain the database of Virginia's African American legislators.

The Abraham Lincoln Subcommittee continues to work with the Richmond Symphony on the Emancipation Proclamation concert.

whose roots lie in the transatlantic slave trade. This study has been assigned to the Abraham Lincoln Bicentennial Subcommittee.

- With recent concerns about the resegregation of public schools around the nation, and the potential effect of *Fisher v. University of Texas*, an affirmative action case before the Supreme Court of the United States, the MLK Commission was asked to examine the issue of resegregation of public schools in view of Virginia's past. This work has been assigned to the Special Subcommittee on Public School Closings (Massive Resistance) in Virginia.
- As a part of the state's commemoration of the sesquicentennial of the Emancipation Proclamation in 2013, the General Assembly, in C-1.30 of the 2012-2014 Appropriation Act, has directed the MLK Commission, in cooperation with the Department of General Services, to conduct a feasibility study for the construction of a permanent monument celebrating the emancipation of slaves and freedom in commemoration of the 150th anniversary of the signing of the Emancipation Proclamation on January 1, 1863. Funds have been appropriated for this purpose. The MLK Commission and the Department of General Services must report quarterly to the General Assembly on the progress made on site selection, project design, projected costs, fund raising, and project finances. This new initiative has been assigned to the Abraham Lincoln Bicentennial Subcommittee. Staff will develop an outline of the proposed feasibility study, in cooperation with Department of General Services, for the establishment of the monument in Virginia.

Special Subcommittee on Public School Closings (Massive Resistance) in Virginia

The MLK Commission has been asked to examine the resegregation of public schools in Virginia. A work group has been named to study the issue and report its findings and recommendations to the MLK Commission.

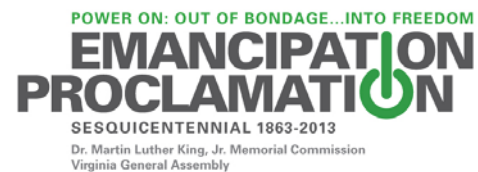
Brian Grogan, producer of Mercy Seat Films, Inc., reported the status of the film, *They Closed Our Schools*, noting that additional funds were needed for postproduction work on the documentary and for preparation of the manuscript, *A Little Child Shall Lead Them: The Struggle for Public Education in Prince Edward County, Virginia, 1959-1964*, which is designed to supplement the film. He requested that the MLK Commission support his effort to launch a Kickstarter Funding appeal as a fundraising mechanism for the documentary's postproduction work.

The status of the Massive Resistance Oral History Project (MROHP) was reported by Dr. Shawn Utsey, chair, VCU Department of Afri-

can American Studies, who summarized the oral history training that the MROHP Team received at the Sinomlando Centre of the University of KwaZulu-Natal, in South Africa. He noted the completion of Phase 1 of MROHP, which included interviews of Massive Resistance survivors, the creation of a service learning class at VCU to train future interviewers, and a closing ceremony in which each participant in Phase 1 was presented a copy of the manuscript of his interview and a tee shirt stating "I Survived Massive Resistance." Phase 2 of the Project will include interviews of other Massive Resistance survivors and civil rights activists who worked to promote school desegregation in Virginia. Dr. Utsey proposed the continuation of the partnership between VCU and the MLK Commission for Phase 2 of the MROHP.

Abraham Lincoln Bicentennial Subcommittee

The Abraham Lincoln Subcommittee reported on MLK Commission partnerships underway for the commemoration of the sesquicentennial of the Emancipation Proclamation.



- *Remembering Slavery, Resistance, and Freedom*, a partnership between the MLK Commission and the College of William and Mary's Institute of Historical Biology, under the direction of Dr. Michael Blakey, chair, to identify, authenticate, and memorialize the grave sites of formerly enslaved Africans who did not live to witness emancipation. Dr. Blakey summarized the findings and recommendations of the statewide focus group meetings and the NEH grant application.
- *Emancipation Proclamation Concert*, one of the MLK Commission's signature events, is a collaboration between the Richmond Symphony and the MLK Commission. Using choral and orchestral music, narration, the visual arts, and student participation, the concert will tell the unblemished story of emancipation in historical context.
- Annual Emancipation Proclamation Day Service, a worship experience held each year by the African American faith community in Richmond, will be one of the signature events of the MLK Commission's commemoration of Emancipation.

- *Freedom to Disenfranchisement*, is a project of the Library of Virginia and the Virginia Foundation for the Humanities, to use the Foundation's Encyclopedia Virginia to provide a website for the entries on the African American legislators in the Library's Dictionary of Virginia.

Annual Living the Dream, Inc. King Holiday

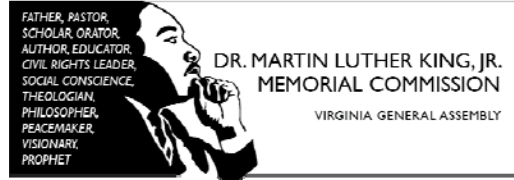
Reverend Ricardo L. Brown, MLK Commission member, reported that the annual Leaders Breakfast will be held on January 11, 2013, at 7:30 a.m., at the Marriott Hotel in Richmond. The MLK Commission agreed to support and purchase tickets for the event.

Legislative Proposals

The staff confirmed that legislation from the chair and vice chair on behalf of the MLK Commission for the 2013 Session has been requested. Other legislative proposals were deferred to the next meeting for discussion.

Next Meeting

The MLK Commission will hold daylong deliberations on October 23, 2012, at the Manassas City Hall Council Chambers. Interviews scheduled for the VCU/MLK Massive Resistance Oral History Project will be held throughout the day at the same location.



DR. MARTIN LUTHER KING, JR. MEMORIAL COMMISSION

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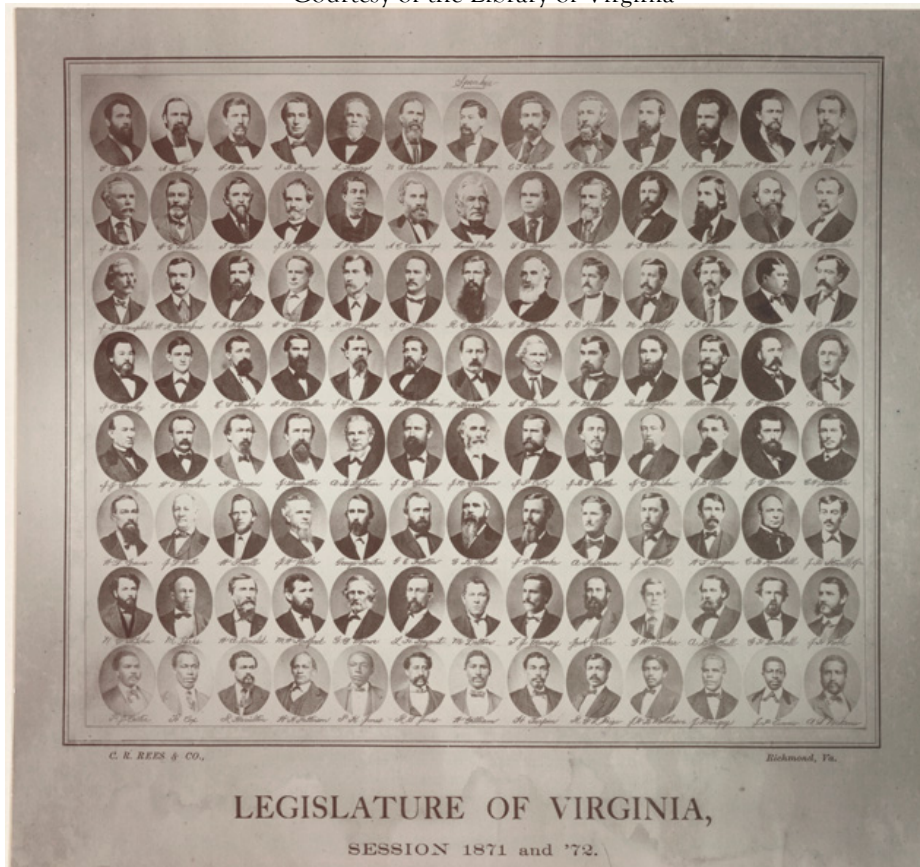
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The MLK Commission heard a report concerning its partnership with the College of William and Mary's Institute of Historical Biology to identify grave sites of formerly enslaved Africans.

1871-1872 Virginia General Assembly African American legislators are on the bottom row.

Courtesy of the Library of Virginia



Virginia Disability Commission

September 19, 2012

The Virginia Disability Commission heard information regarding the Community Integration Advisory Commission.

The fourth meeting of the Virginia Disability Commission for the 2012 interim was held in Richmond. Following introductions and opening remarks, Delegate Pogge was elected chair of the Disability Commission.

Community Integration Advisory Commission

Catherine Harrison, Department for Aging and Rehabilitative Services
Linda Wyatt, Community Integration Advisory Commission

Ms. Harrison provided an overview of the Community Integration Advisory Commission, including an explanation of the U.S. Supreme Court's decision in *Olmstead v. L.C.* and the impact of the decision on the Commonwealth and the history, authority, composition, and activities of the Community Integration Advisory Commission. Ms. Wyatt then described the Community Integration Advisory Commission's recommendations, which included fully funding ID/DD waiver slots; eliminating the sunset provision for the Community Integration Advisory Commission; establishing a process for use of funds from the sale of training center properties to support housing for individuals transitioning to community-based services; and eliminating the COPN exception for certain intermediate care facilities for individuals with intellectual and developmental disabilities.

Virginia Association of Centers for Independent Living

Tom Vandever, Independence Resource Center

Mr. Vandever presented information on the Virginia Association of Centers for Independent Living (VACIL) plan for expanding Centers for Independent Living (CILs) throughout the Commonwealth. Mr. Vandever noted that VACIL was requesting (i) \$500,000 to transition satellite CILs to full CILs, including \$250,000 each for CIL satellites in Petersburg and the New River Valley, (ii) \$160,000 to assist additional existing satellite CILs working toward readiness to become full CILs, including

\$80,000 each for Loudoun County and Middle Peninsula, and (iii) \$320,000 to establish new satellite CILs in areas that are currently not served, including \$80,000 each for Northern Neck, Southside, Planning District 14, and Lower Planning District 9.

Work Group Reports

Following presentations, staff presented the work groups' recommendations to the full Disability Commission, and the Disability Commission voted to adopt 15 of the work groups' recommendations. The Disability Commission also adopted a recommendation that the sunset provision for the Community Integration Advisory Commission be extended to July 1, 2016. Information about recommendations adopted by the Disability Commission can be found on the Disability Commission's website.

Next Meeting

The next meeting of the Disability Commission will be held on Tuesday, December 4, 2012, at the General Assembly Building in Richmond.

VIRGINIA DISABILITY COMMISSION

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Virginia Bicentennial of the American War of 1812 Commission

September 19, 2012

The first meeting of the 2012 legislative interim for the Virginia Bicentennial of the American War of 1812 Commission (Commission) and its Citizens Advisory Council (Council) was held on September 19, 2012, in Richmond to continue the plans for the commemoration of the bicentennial of the War of 1812.

Citizens Advisory Council

The Council was briefed on commemorative activities occurring in- and out-of-state, and bicentennial updates were featured, including summaries of numerous speaking engagements extended to Council members and the Commission's participation in the annual wreath-laying ceremony for Presidents James Madison, James Monroe, and John Tyler. David Bailey, representing Blue Ridge PBS, indicated that the station remains committed to producing a documentary on the War of 1812, as previously discussed. Dr. John Quarstein updated the Council regarding the status of the book *Tread of the Tyrant's Heel*, which is planned as a legacy product for the bicentennial, and he affirmed that he would submit the transcript for the PBS documentary to the Commission.

The Council also agreed to several recommendations that were submitted to the Commission for its approval.

Recommendations

- Establish a schedule for the dedication of the new historical markers on the Virginia War of 1812 Heritage Trail and identify the localities responsible for maintaining their own roads.
- Confirm the number of advance copies of *Tread of the Tyrant's Heel* to which the Commission should commit and establish a list of potential entities to receive a copy of the book, including one copy for each public secondary school and public library in Virginia, institutions of higher education across the Commonwealth, members of the General Assembly, and members of the Commission and Council.
- Confer with persons knowledgeable and experienced in developing directional signage.
- Establish a speakers list for upcoming signature events, i.e., 2014 Symposium.

- Organize and plan the Chesapeake Bay Tour in June 2013.
- Update the Commission's brochure and case statement to accurately reflect the schedule of remaining signature and other commemorative events, including the schedule for the dedication of new historical markers on the Virginia War of 1812 Heritage Trail.

National Commemoration

Star-Spangled Banner National Historic Trail

Christine Lucero, National Park Service (NPS) Partnerships Coordinator, addressed the Commission concerning the status of the Star-Spangled Banner National Historic Trail (Trail), which was officially opened to tourists on July 30, 2012. The Trail is marked by three-sided signage kiosks, wayside and interpretive signs, and highway markers to provide a combination of land and water-based sites designed to highlight Maryland's role in the War of 1812. She indicated that web-based, print, and other media resources will be made available to the public and for students and teachers, such as the NPS Junior Ranger Program, a virtual resource center for educators, a new mobile application and pocket guide, an illustrated history, and National Oceanic and Atmospheric Administration buoys for real-time information on water and weather conditions. Regarding overlapping areas of the Star-Spangled Banner National Historic Trail and the Virginia War of 1812 Heritage Trail, Ms. Lucero stated that the NPS would be receptive to discussing co-branding of signage. The Commission expressed its interest in co-branding of signage and in developing by 2014 a Teacher Resource Guide focused specifically on Virginia similar to that created by NPS for the state of Maryland.

Virginia War of 1812 Commission

Staff Report

The Commission launched Virginia's commemoration of the bicentennial of the War of 1812 on January 11, 2012, with a concert in collaboration with the Richmond Symphony, its first signature event. The concert, a public and sold-out affair, was followed by a reception. The concert was re-broadcast in its entirety after the Joint Session of the General Assembly, and the concert received very favorable media coverage. The concert has become the model for similar events and partnerships with the Richmond Symphony.

The Virginia Bicentennial of the American War of 1812 Commission participated in wreath-laying ceremonies for Presidents Madison, Monroe, and Tyler.

OpSail 2012 received the prestigious 2012 Grand Pinnacle Award from the International Festivals and Events Association.

Other commemorative events included the Commission's participation in the annual wreath-laying ceremony for President James Madison at Montpelier on March 16, 2012, President John Tyler on March 29, 2012, in Richmond, and President James Monroe on April 28, 2012, in Richmond, at his birthplace in Westmoreland County and his law office in Fredericksburg.

Virginia's localities were requested to participate in the commemoration by passing resolutions or proclamations regarding the bicentennial of the War of 1812. To date, the Commission has received resolutions and proclamations from the following localities.

- Appomattox County
- City of Williamsburg
- Nelson County
- Town of Independence
- Town of Louisa
- Town of Smithfield
- Town of Stanley
- Town of Warsaw
- Town of Vinton

OpSail 2012 Virginia

One of the Commission's signature events, OpSail 2012 Virginia, was held on June 1-12, 2012, in Hampton Roads, and was the highlight of the multiyear bicentennial of the War of 1812 in Virginia. Organized and coordinated by Norfolk's Festevents, Inc., the event featured the tall ships of more than 32 NATO countries, exhibits, book signings and lectures, other activities, students of public and private schools, and representatives of the U.S. Coast Guard, U.S. Naval Command, and several localities. OpSail 2012 Virginia has been honored to receive the prestigious 2012 Grand Pinnacle Award from the International Festivals and Events Association. A final report concerning OpSail 2012 Virginia will be submitted by Festevent to the Commission early next year.

Virginia War of 1812 Heritage Trail: Historical Markers

The Board of Historic Resources has approved 15 new markers for the Virginia War of 1812 Heritage Trail. One such marker, the Dolly Madison historical marker, was dedicated on March 16, 2011. The Commission was informed that at least two other historical markers have been installed by the Virginia Department of Transportation; however, these

markers have not been dedicated. The Department of Historic Resources advised that the cost of making markers has increased, and that the Virginia Department of Transportation must determine the appropriate location for each marker. It was agreed that the Commission would identify which localities have responsibility for the maintenance of their roads in order that the installation and dedication of the markers may be determined. Working in cooperation with the Department of Historic Resources, the Commission further agreed to establish a schedule for the dedication of historical markers, beginning in March 2013.

Other Business

The Commission reviewed its budgetary affairs; discussed HJR 415 (2012), which commends the United States Coast Guard for its American War of 1812 Revenue Cutters Service; and discussed the necessity of appointing the signage and Chesapeake Bay Tour subcommittees to plan these activities. The Commission also adopted the recommendations submitted by the Council, and staff was requested to follow up with items pertaining to the National Park Service.

Next Meeting

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



VIRGINIA BICENTENNIAL OF THE AMERICAN WAR OF 1812 COMMISSION

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Joint Subcommittee to Evaluate Tax Preferences

October 2, 2012

The Joint Subcommittee to Evaluate Tax Preferences, established by Chapter 777 of the 2012 Acts of Assembly (HB 777), held its first meeting in Richmond. Senator Walter Stosch, chair of the Senate Finance Committee, presided over the meeting.

Joint Legislative Audit and Review Commission Staff Report

Staff of the Joint Legislative Audit and Review Commission (JLARC) provided an overview of the JLARC study regarding the effectiveness of Virginia tax preferences. One of the recommendations of that study was the creation of a legislative joint subcommittee to oversee tax preferences. The JLARC study noted several challenges in reviewing tax preferences, such as the lack of clearly stated policy goals for most preferences, as well as limitations in the data collected regarding the use of sales tax exemptions. The full JLARC report is published as Senate Document 4 (2012).

Division of Legislative Services Staff Report

Staff from the Division of Legislative Services provided an overview of the legislation that created the joint subcommittee. Generally, the purpose of the joint subcommittee is to oversee the evaluation of Virginia's tax preferences, which include but are not limited to tax credits, deductions, subtractions, exemptions, and exclusions. The legislation sets forth various powers and duties, including undertaking a systematic review of Virginia's tax preferences, establishing procedures for review, requesting the assistance of the Virginia Department of Taxation, establishing expiration dates for tax preferences, and submitting an annual report. In addition, the joint subcommittee is granted the authority to establish a Technical Advisory Committee to advise it in its work.

In establishing a work plan, staff noted that several key questions will need to be considered, such as defining what the joint

subcommittee considers to be a tax preference; identifying which preferences the committee wishes to review and on what timeline; identifying the data and information the joint subcommittee wishes to review about each preference; and deciding whether or not to appoint a Technical Advisory Committee.

Discussion

During the discussion period, members noted various areas of interest and concern. Delegate Harry Purkey noted that he would like to study the multiplier effect of various industries to see which industries have a higher multiplier effect in terms of jobs created and revenues generated and to see where preferences should be focused. Other members expressed interest in first focusing on the larger preferences that cost the state the most dollars annually. There was also some interest in using a study of tax preferences to look more broadly at Virginia's tax structure, including elements like the tiered tax rate.

Other Business

Because there was not a quorum present at the meeting, the joint subcommittee did not elect a chair and vice chair, nor did it adopt a work plan. Senator Stosch suggested that members email staff with suggestions and ideas for work planning that could be discussed at a future meeting. Members of the committee also requested that Delegate Purkey and Senator Stosch, as the chairs of the House and Senate Finance Committees, and in the absence of a chair, request the assistance of the Department of Taxation from the Governor.

Next Meeting

The next meeting of the joint subcommittee will be held on December 17, 2012, at 1:00 p.m. in House Room D.

JOINT SUBCOMMITTEE TO EVALUATE TAX PREFERENCES

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The Joint Subcommittee to Evaluate Tax Preferences heard a report from JLARC noting challenges in reviewing tax preferences.

Commission on Civics Education

October 2, 2012

The Commission on Civics Education will host its annual Civics Summit on November 8, 2012, at the Virginia State Capitol in Senate Room 3 from 9 a.m. until 3:30 p.m.

The Commission on Civics Education (Commission), formed in 2009, is charged with educating students on the importance of citizen involvement in a representative democracy, promoting the study of state and local government among the Commonwealth's citizenry, and enhancing communication and collaboration among organizations in the Commonwealth that conduct civics education.

The Commission, chaired by Delegate Richard L. Anderson, met at the General Assembly Building in Richmond to plan the November 8 Civics Summit, an all-day event for civics educators that is being held at the Virginia State Capitol. Other items on the agenda included the possible merging of the Civics Summit with Project Capital, membership changes, legislation, and media resources.

Civics Summit

The former Delegate James H. "Jim" Dillard II, member of the Commission, will chair this year's Civics Summit. More than one hundred civics educators are expected to attend the event on November 8 at the Virginia State Capitol, which will be focused on the judicial process. The summit is open to civics teachers involved in all grade levels from all over the Commonwealth and will be highlighted by speakers involved in various aspects of the judicial system. Registration for this event can be found online at the Virginia General Assembly website.

Next year, Thomas C. "Tom" Coen will chair the Civics Summit. At the October meeting, the Commission discussed various changes to the program. Members brought up the idea of merging the Summit with Project Capital—a program for pre-licensure teachers run by the House of Delegates in partnership with Virginia Commonwealth University and the College of William and Mary. Staff has distributed to members of the Commission information about the program for further study and consideration.

Membership and Legislation

In addition to changes to the Summit, membership changes were also of particular

interest. Newly elected Senator Kenneth C. Alexander, former delegate and Commission member, created a vacancy in his move from the House to the Senate and another vacancy for a citizen member also exists. The chair hopes that the vacancies will be filled with active, involved people so as to carry on the Commission with vigor.

This past General Assembly session, the Commission was saved from expiration during one of the final days of the session, continuing it until 2013. In 2013, it will be the intent of the Commission to prepare for extension much earlier than last session, as well as to clear up language concerning the Commission's funding. Other legislation included clarification of civics certification requirements for the Commonwealth's teachers and using language in the current legislation to provide more guidance for school systems. From this dialogue, a subcommittee was formed to discuss the intent of what exactly the clarification and language needs to be. Tom Coen will chair this subcommittee.

Media Resources

Ginger Stanley, citizen member of the Commission representing the Virginia Press Association, pointed out several useful newspaper resources that have supported civics education. For instance, the Fredericksburg-area newspaper, the *Free-Lance Star* has a section that highlights the 2012 elections coming in November, which is proving very useful to teachers in the surrounding area in aiding in civics lesson plans.

Next Meeting

The next meeting of the Civics Education Commission will take place on January 7, 2013, in Richmond, with the Civics Summit being held on November 8, 2012.

COMMISSION ON CIVICS EDUCATION

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Joint Commission on Technology and Science

Energy Advisory Committee

The Energy Advisory Committee (Advisory Committee) of the Joint Commission on Technology and Science held its second meeting of the 2012 interim in Richmond on October 2, 2012, with Delegate John Cosgrove, chair of the Advisory Committee, calling the meeting to order.

Emil Avram, Dominion Resources, Inc.

Mr. Avram gave a summary of Dominion's renewable energy developments. Mr. Avram noted that Dominion continues to work towards short- and long-term goals in renewable energy, including meeting Virginia's renewable energy goals. The Commonwealth has a diverse set of potential renewable resources including solar, offshore wind, and biomass. Dominion currently has over 1600 MW of renewable energy sources in development, construction, or operation.

The Advisory Committee was especially interested in the cost of the various renewable resources. Mr. Avram noted that the price of natural gas has fallen, due to the development of shale gas. This has led the wholesale price of electricity and the price of a Renewable Energy Certificate to drop significantly. The price drop has created a bad environment for renewable development where revenue components are below the levelized cost of energy.

In response to questions about Dominion's use of electricity from the wholesale market and the use of peaking natural gas units, Mr. Avram noted that Dominion buys 25 percent of its electricity from wholesale markets and also utilizes a fleet of peak natural gas units to lower costs. In addition, Dominion uses a pump storage facility located in Bath County to offset the costs of peak usage. He also addressed questions about the externalities of energy production and their costs by noting that the external cost of carbon emissions is a complicated and global issue and that there is no formula to calculate the costs of carbon emissions. He also answered questions about the difference between centralized and distributed solar by stating that the larger the facility, the more costs can be contained due to the economies of scale.

Dr. Liam Leightley, Institute for
Advanced Learning and Research,
Virginia Tech

Dr. Leightley gave a presentation on the biomass industry in Virginia. Dr. Leightley pointed out that biomass-based materials could improve national security, help protect the environment, and increase prosperity in rural areas of the Commonwealth.

Dr. Leightley noted the challenges in meeting renewable energy portfolios and that biomass could help meet those challenges. The Institute for Advanced Learning and Research (IALR) has partnered with Virginia Tech to look into what types of biomass feedstock could be grown in Virginia and identified specific grasses that could be farmed with repurposed tobacco farming equipment.

The Institute has also partnered with CHEMTEX, a North Carolina company, to identify suitable land and growers and develop the basis for the required logistic infrastructure for producing biomass.

Advisory Committee members asked about the potential amount of oil biomass could offset. Dr. Leightley noted that a community could offset up to 50 million barrels of oil if it had a local biomass refinery. Members were also concerned with the economic viability of the biomass industry.

Joe Hirl, Agilis Energy

Mr. Hirl gave a presentation on leveraging data to increase energy efficiencies using data collected from smart meters. Mr. Hirl demonstrated that monthly energy consumption bills do not show the entire picture of a building's energy use. There may be energy peaks and lows, or buildings may be consuming high amounts of energy when they are empty.

Mr. Hirl noted that through smart meter data analytics, there is potential for a tremendous savings in commercial retail, office, and government buildings. He estimated that \$30-40 million a year in savings in Virginia office buildings could be achieved by utilizing this data, and that comparable savings could be achieved in educational, health care, and other facilities. For example, using smart meter data, a building at Duke University was able to save 70 percent of its overnight costs.

Advisory Committee members inquired about the availability of the data and the use of smart meters in the Commonwealth. Mr. Hirl noted that the utilities collect the data through their meters. Dominion noted that smart meters

*The JCOTS Energy
Advisory Committee
heard information
about various
alternative energy
sources and solutions,
including biomass
and the use of smart
meters.*

were available in three regions of the Commonwealth. Dominion cannot fully implement smart meters without the State Corporation Commission's involvement. Third-party smart meters are available to any consumer.

*The JCOTS
Electronic Meetings
Advisory Committee
conducted an
audio/visual meeting
using Cisco
TelePresence
Technology.*

Other Business

Robert Stolle, Center for Innovative Technology

Mr. Stolle gave an update on the strategic roadmap developed by the Center for Innovative Technology (CIT). The Commonwealth Research and Technology Strategic Roadmap is a comprehensive planning tool the Commonwealth uses to identify research areas worthy of economic development and institutional focus. CIT has identified investment areas that become force multipliers for a region. There is not a region in the Commonwealth that does not have energy businesses. There is a real opportunity in the cross section of information technology and the energy sector for people and companies that develop the applications and processes that manage smart grid information.

HB 2175/SB1347 (2009)

Before adjourning, Committee members asked for an update on HB 2175/SB1347 (2009), which directed the Department of Environmental Quality to develop a permit or permits by rule for the construction and operation of small renewable energy projects.

Next Meeting

The chair of the Advisory Committee indicated that at the next meeting, to be held on Wednesday, November 7, 2012, at 10:00 a.m. in House Room C of the General Assembly Building, he would like Advisory Committee members to bring ideas about what the Commonwealth can do to advance alternative sources and other energy solutions.

Electronic Meetings Advisory Committee

The Electronic Meetings Advisory Committee (Advisory Committee) of the Joint Commission on Technology and Science held its third meeting on Monday, October 15, 2012. The meeting was conducted as an audio/visual meeting pursuant to § 2.2-3708 of the *Code of Virginia*, using Cisco TelePresence Technology. The main meeting location, attended by Delegate Joe May, chair of the Advisory Committee, and Senator John Miller was held at a Cisco facility in Richmond. Delegate Ken Plum joined the meeting from the Fairfax Campus of George Mason University.

The main objective of the meeting was to conduct an audio/visual meeting using state-of-the-art technology, in order to provide the members a better understanding of evolving technologies and to inform their discussions concerning electronic meetings and FOIA. The chair noted that when the provisions related to electronic meetings were drafted, the laws were restrictive because technology was limited and cumbersome. He said the Advisory Committee is looking for ways to improve public meetings for members and citizens and is interested in everyone's feedback about this meeting. Virginia does not like to rush into policy changes, but in this area, it might be time to move ahead.

4-VA

Cisco has partnered with the Commonwealth in the 4-VA higher education initiative, designed to create access and affordability for higher education. Currently in a pilot stage, Cisco installed TelePresence labs at the University of Virginia, Virginia Tech, George Mason University, and James Madison University. Cisco and the Secretary of Education of the Commonwealth graciously allowed JCOTS to use these facilities to experience the technology in a public meeting context.

The Advisory Committee received a briefing on the 4-VA initiative from a panel of speakers, who participated in the meeting from the sites in Richmond and George Mason, as well as California.

Laura Fornash, Virginia Secretary of Education

Ms. Fornash welcomed attendees and provided a brief overview of the 4-VA higher education initiative.

Dr. Angel Cabrera, George Mason University

Dr. Cabrera provided a university perspective. He thanked the Advisory Committee for not just discussing how technology can improve government, but taking the step to experience it firsthand. He noted that when used thoughtfully, technology can help improve outcomes. In the education realm, technology can be used in synchronous and asynchronous manners to help learners adapt education to meet their personal needs. Technology can also help to respond to the budgetary pressures currently facing higher education.

Dr. Joy Hughes, George Mason University

Dr. Joy Hughes, a vice president and chief information officer of George Mason University and the director of 4-VA, provided an overview of the goals of 4-VA, what has been accomplished so far, and what the next steps will be for the program.

Carol Stillman, Cisco

Ms. Stillman joined the meeting from California. She outlined Cisco's perspective on the public-private partnership with Virginia, as well as Cisco's perspective about education and technology.

Distance Learning

Anne Moore, Virginia Tech

After the completion of the 4-VA discussion, the Advisory Committee heard from experts in distance learning from Virginia Tech, led by Anne Moore, the Associate Vice President for Learning Technologies. Many of the current concerns about the use of electronic meetings concern the ability to effectively communicate—an issue that has been studied and addressed by the distance learning community. The presentation focused on the variety of technologies that can be used in a meeting setting, and the benefits and drawbacks of each. The technologies range from the high-end, such as the TelePresence, to low-end asynchronous applications.

Electronic Meetings

After the presentations, the members engaged in discussion about electronic meetings. It was noted that policy should aim to derive the maximum benefit from technology while minimizing the downsides. Members of the public noted that nothing in the current law would prohibit a public body from utilizing this type of technology in public meetings. One criticism of the technology used in this meeting was that the participants could not see all of the other remote participants on the screen at once—who was visible at the various sites was dependent upon who was speaking at the time.

The chair suggested that some thought should be given to generating well-equipped audio/visual meeting locations around the state that public bodies could use. Locations for future consideration included courts, universities, and libraries.

The chair requested that the Advisory Committee members generate some guidelines for the use of electronic meetings and a proposed pilot program for JCOTS to experiment with a variety of electronic meeting technologies in the next year. The group voted to approve several proposals that had been discussed at past meetings and to recommend them from JCOTS. These proposals were to remove the limitation on the number of electronic meetings that a public body could hold annually, allow regional public bodies to use electronic meetings, consider whether the requirements for electronic meetings should be different if utilizing an audio/visual connection as opposed to a simple teleconference, and look at ways to use technology to increase public access. The four proposals will be presented to JCOTS at its December meeting.

*The JCOTS
Electronic Meetings
Advisory Committee
heard a variety of
speakers regarding the
use of technology in
meetings and
education.*

Cyber Security Advisory Committee

The second meeting of the Cyber Security Advisory Committee (Advisory Committee) of the Joint Commission on Technology and Science was held on October 16, 2012. Delegate Tom Rust, chair, and citizen members from the private sector, local governments, and the Commonwealth's institutions of higher education were present and actively participated in the Advisory Committee discussions.

The Virginia Information Technologies Agency reported that the Commonwealth has been the target of over 70 million cyber security attacks in a six-month period, with over 320 million spam messages received during the same timeframe.

Cyber Security in the Commonwealth

Sam Nixon and Michael Watson, Virginia Information Technologies Agency

Mr. Nixon and Mr. Watson gave an overview of cyber security within the Commonwealth. Prior to the creation of the Virginia Information Technologies Agency, each of the Commonwealth's government agencies had its own IT team. This led to duplicative systems, obstacles to sharing data, and inadequate security. Since its creation in 2003, VITA has centralized Virginia's IT services and has transitioned 86 out of 89 agencies to the new services. The three agencies that have not transitioned to VITA prefer to remain autonomous.

VITA is tasked with security governance of all three branches of Virginia's government. It controls the infrastructure, while agencies remain responsible for application management. Agencies must comply with VITA's policies and standards, which include security controls for data protection. VITA's data protection efforts include conducting intrusion detection and vulnerability scanning, providing software patching, and encrypting email.

The Commonwealth has been the target of over 70 million attacks in a six-month period. In that same time frame, over 320 million spam messages were detected. The attacks originate from around the world. VITA has seen an increase in security incidents in the last two years. Going forward, VITA plans to upgrade its infrastructure, add capability to analyze network traffic, and increase its mobile device security. The Advisory Committee was concerned with the challenges VITA faces. Members discussed the balance between VITA's authority to ensure compliance and its accountability for security breaches.

Virginia's Operational Integration Cyber Center of Excellence

Leslie Fuentes, City of Hampton

Ms. Fuentes gave a brief overview of Virginia's Operational Integration Cyber Center of Excellence (VOICCE) program. VOICCE was created with a grant from the U.S. Department of Homeland Security. While the grant has expired, VOICCE created a cyber lab and conducts exercises in partnership with Thomas Nelson Community College.

Ms. Fuentes noted that local governments are particularly vulnerable to cyber attacks. VITA has no authority to set standards for local governments. The Advisory Committee noted that this was particularly troubling because local government systems are linked to state systems. Adversaries target a system's weakest link and could be targeting local government systems as a gateway to the broader state network. The Advisory Committee discussed setting state standards for local government and how the state and local government could increase collaboration on standards.

Cyber Security Partnerships

Bradford Willke, U.S. Department of Homeland Security

Mr. Willke gave a presentation on cyber security partnerships. Mr. Willke noted that the sophistication of cyber attacks continues to increase. Targeted attacks are becoming more common. The U.S. Department of Homeland Security works with state and local governments to identify and secure vulnerable systems.

The Multi-State Information Sharing and Analysis Center (MS-ISAC) is a partnership between several state and local governments. MS-ISAC is a "911"-like system for cyber incidents. It provides cyber incident coordination, handling, and response, as well as a system ("Albert") for threat monitoring, detection, and prevention that is based on the federal system ("Einstein"). MS-ISAC also provides low-cost annual cyber security awareness and training.

In 2011, the U.S. Department of Homeland Security conducted the Nationwide Cyber Security Review (NCSR). The NCSR was a study to measure the effectiveness of security

control placement based on risk management processes. The U.S. Department of Homeland Security received responses from entities in 49 out of 50 states. While the majority of respondents have adopted cyber security control frameworks, these frameworks are under tested and have not been upgraded. The Advisory Committee asked Mr. Willke what could be done to improve cyber security. Mr. Willke noted that defenses should be threat agnostic, and that testing should be conducted under imperfect conditions as attacks do not occur in a controlled setting.

Cyber Security Leadership

Dr. T. Charles Clancy, Ted and Karyn Hume Center for National Security and Technology, Virginia Tech

Dr. Clancy gave a presentation on ideas for cyber security leadership by the Commonwealth. Dr. Clancy proposed that the Virginia Retirement System dedicate a portion of its funds to investing in cyber security companies. He noted that the New York pension fund had achieved a 30 percent return while investing in funds dedicated to cyber security companies. Dr. Clancy also advocated for incentives for private entities to secure their critical cyber infrastructure.

Other Business

Following the presentations and discussion, the chair of the Advisory Committee asked members about their willingness to continue the discussion. The consensus was that the Advisory Committee should continue into the next interim. The chair then called on the members to each create a list of cyber security challenges and the direction the Advisory Committee should take going forward.

Next Meeting

The next full meeting of the Joint Commission on Technology and Science will be on December 5, 2012, in House Room D of the General Assembly Building.

Electronic Identity Management Advisory Committee

The Electronic Identity Management Advisory Committee (Advisory Committee) of the Joint Commission on Technology and Science held its second meeting on October 17, 2012. Senator John Watkins, chair of the Advisory Committee, and Delegate Kathy Byron were present, along with representatives from several secretariats and government agencies. Many members of the private sector were also present, including some interested parties from out-of-state who joined the discussion via teleconference.

The meeting consisted of several presentations that were aimed to followup on questions and requests for information from the first meeting.

Data Analytics

Tim Finnegan, SAS Institute

Mr. Finnegan provided an overview of data analytics. He indicated that data analytics are used not just to see what has already happened, but to use existing data to forecast trends and outcomes. Complex analyses are used to make connections in the data that may not be readily apparent.

Commonwealth Authentication Service

Michael Farnsworth, Department of Motor Vehicles

Michael Farnsworth, the Commonwealth Authentication Service (CAS) Project Manager at the Department of Motor Vehicles (DMV), provided an update. CAS is the core service being utilized in the eHHR project discussed at the first meeting, but can be built out for many other applications that require authentication and identity management. In the future, the DMV could serve as a gateway for other agencies wishing to provide credentials.

Credentials for First Responders

Duane Stafford, Statewide Credentialing Coordinator

Mr. Stafford explained Virginia's leading efforts in providing credentials for first responders. Issues related to credentialing became apparent in response to the Pentagon attack on 9/11. Using U.S. Department of

The U.S. Department of Homeland Security works with state and local governments to identify and secure vulnerable systems.

Virginia conducted a pilot program in Northern Virginia and currently has a program in Hampton Roads related to credentialing first responders.

Homeland Security grants, his office had a first pilot program in Northern Virginia and a second (currently ongoing) program in Hampton Roads. He also demonstrated a handheld credential reader that is used to identify and “check-in” a first responder using the credentials, regardless of which agency issued the credential.

Identity Management/Verizon

Paul Donfried, Verizon

Mr. Donfried provided an update on Verizon’s work in the realm of identity. He explained Verizon’s approach towards identity management, and the user-centric goals that they are working towards.

Third-Party Liability

Jeff Nigriny, Certipath

Mr. Nigriny discussed third-party liability questions and issues that surround the issuance of identity credentials. Legislation had been proposed to JCOTS in 2011 concerning this issue. He suggested some possible changes to the proposal and urged that the committee consider suggesting the legislation to the 2013 Session of the General Assembly. The chair asked him to forward the proposal to staff for it to be circulated, reviewed, and discussed at the next meeting.

Next Meeting

The next meeting of the Electronic Identity Management Advisory Committee will be on Monday, November 19, 2012, at 1:00 p.m., in the 6th Floor Speaker’s Conference Room at the General Assembly Building.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

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

Virginia Housing Commission

The following work groups and sub-work groups of the Virginia Housing Commission have met since May:

- Housing and Environmental Standards Work Group.
- Common Interest Communities Work Group.
- Neighborhood Transitions and Residential Land Use Work Group.
- Affordability, Real Estate Law and Mortgages Work Group.
- Timeshare Sub-Work Group.
- Continuing Care Retirement Communities Sub-Work Group.

A meeting of the full Virginia Housing Commission will take place November 14-16, 2012, at The Hotel Roanoke and Conference Center.



VIRGINIA HOUSING COMMISSION

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*The Virginia
Housing Commission
continues to meet
during the 2012
interim.*

Did You Know?

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

2013 Session Prefiling Calendar

- Joint subcommittees on studies should submit an executive summary including findings and recommendations to DLAS by the first day of the General Assembly's Regular Session.
- All requests for drafts of legislation for prefilng to be submitted to DLS by 5:00 p.m. on December 3, 2012.
- All drafts of legislation to be prefled returned by DLS for requester's review by midnight December 28, 2012.
- All requests for drafts, redrafts, and corrections of legislation creating or continuing a study to DLS by 5:00 p.m. on January 4, 2013.
- All requests for redrafts and corrections for legislation to be prefled to DLS by 5:00 p.m. on January 4, 2013.
- Covered drafts of legislation to be prefled available at DLS by noon on January 8, 2013.
- Prefiling for the 2013 Session ends at 10:00 a.m. on January 9, 2013.
- The 2013 General Assembly convenes on January 9, 2013, at noon.

Meeting Calendar for November 2012

<p>Virginia Housing Commission/Housing and Environmental Standards Work Group and Time-Share Work Group Elizabeth Palen</p>	<p>Housing and Environmental Standards Work Group 10:00 a.m., Thursday, November 1, 2012—Senate Room A, GAB</p> <p>Time-Share Work Group 1:30 p.m., Thursday, November 1, 2012—House Room C, GAB</p>
<p>Joint Commission on Health Care</p>	<p>10:00 a.m., Wednesday, November 7, 2012—Senate Room A, GAB</p>
<p>FOIA Council/Electronic Meetings Subcommittee Maria Everett/Alan Gernhardt</p>	<p>10:00 a.m., Wednesday, November 7, 2012—4th Floor West Conference Room, GAB</p>
<p>JCOTS/Energy Advisory Committee Lisa Wallmeyer</p>	<p>10:00 a.m., Wednesday, November 7, 2012—House Room C, GAB</p>
<p>Virginia Commission on Youth</p>	<p>1:00 p.m., Wednesday, November 7, 2012—House Room C, GAB</p>
<p>Virginia Code Commission Jane Chaffin</p>	<p>10:00 a.m., Thursday, November 8, 2012—6th Floor Speaker's Conference Room, GAB</p>
<p>Commission on Civics Education</p>	<p>All day, Thursday, November 8, 2012—Virginia State Capitol</p>
<p>Joint Legislative Audit and Review Commission</p>	<p>9:00 a.m., Tuesday, November 13, 2012—Senate Room A, GAB</p>
<p>Virginia State Crime Commission</p>	<p>2:00 p.m., Tuesday, November 13, 2012—Senate Room A, GAB</p>
<p>Virginia Housing Commission Elizabeth Palen</p>	<p>1:00 p.m., Wednesday-Friday, November 14-16, 2012—The Hotel Roanoke and Conference Center, Roanoke</p>
<p>JCOTS/Identity Management Advisory Committee Lisa Wallmeyer</p>	<p>1:00 p.m., Monday, November 19, 2012—6th Floor Speaker's Conference Room, GAB</p>
<p>Small Business Commission Amigo Wade</p>	<p>10:00 a.m., Tuesday, November 20, 2012—Senate Room A, GAB</p>

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

Meeting Calendar for December 2012

Virginia Commission on Youth 10:00 a.m., Monday, December 3, 2012—House Room C, GAB

Virginia Code Commission 10:00 a.m., Tuesday, December 4, 2012—6th Floor Speaker's
Jane Chaffin Conference Room, GAB

Virginia Disability Commission 2:00 p.m., Tuesday, December 4, 2012—House Room D, GAB
Sarah Stanton

Virginia Housing Commission 10:00 a.m., Wednesday, December 5, 2012—House Room C, GAB
Elizabeth Palen

Virginia State Crime Commission 10:00 a.m., Wednesday, December 5, 2012—Senate Room A, GAB

JCOTS 1:00 p.m., Wednesday, December 5, 2012—House Room D, GAB
Lisa Wallmeyer

Joint Legislative Audit and Review Commission 10:00 a.m., Monday, December 10, 2012—Senate Room A, GAB

Joint Subcommittee to Evaluate Tax Preferences 1:00 p.m., Monday, December 17, 2012—House Room D, GAB
Lisa Wallmeyer/David Rosenberg

FOIA Council 1:30 p.m., Monday, December 17, 2012—House Room C, GAB
Maria Everett/Alan Gernhardt

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

**Prefiling
for the 2013 Regular Session
began on Monday, July 16, 2012.**

**The last day to act on continued
legislation is Thursday,
November 29, 2012.**

REGULATORY ALERT

A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH

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

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

4VAC25-31. Reclamation Regulations for Mineral Mining (amending 4VAC25-31-10, 4VAC25-31-100, 4VAC25-31-110, 4VAC25-31-130, 4VAC25-31-140, 4VAC25-31-150, 4VAC25-31-170, 4VAC25-31-190, 4VAC25-31-260, 4VAC25-31-290, 4VAC25-31-330, 4VAC25-31-360, 4VAC25-31-380, 4VAC25-31-420, 4VAC25-31-460, 4VAC25-31-490, 4VAC25-31-500, 4VAC25-31-510, 4VAC25-31-530, 4VAC25-31-540, 4VAC25-31-550; adding 4VAC25-31-405, 4VAC25-31-505).

A public hearing will be held on December 4, 2012, at 10 a.m. at the Department of Mines, Minerals and Energy at Fontaine Research Park in Charlottesville. Written public comments may be submitted until December 21, 2012.

Summary:

The proposed amendments facilitate the use of electronic permitting and forms and clarify reclamation and postmining land use requirements. Obsolete items, such as addresses that have changed, are updated. The proposal also expands the types of financial instruments that can be used for performance bonds.

For more information, please contact Michael Skiffington, Department of Mines, Minerals and Energy, Richmond, VA, telephone (804) 692-3212, FAX (804) 692-3237, TTY (800) 828-1120, or email mike.skiffington@dmme.virginia.gov.

VIRGINIA GAS AND OIL BOARD

4VAC25-165. Regulations Governing the Use of Arbitration to Resolve Coalbed Methane Gas Ownership Disputes (adding 4VAC25-165-10 through 4VAC25-165-130).

A public hearing will be held on November 28, 2012, at 10 a.m. at the Russell County Office Building in Lebanon. Written public comments may be submitted until December 21, 2012.

Summary:

The proposed regulations implement a voluntary arbitration process for parties with conflicting claims of ownership of coalbed methane gas as directed by Chapter 442 of the 2010 Acts of Assembly. Key provisions include how arbitrations are funded, the qualifications of the arbitrator, and procedures associated with the arbitration process.

For more information, please contact Michael Skiffington, Department of Mines, Minerals and Energy, Richmond, VA, telephone (804) 692-3212, FAX (804) 692-3237, TTY (800) 828-1120, or email mike.skiffington@dmme.virginia.gov.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

DEPARTMENT OF CORRECTIONS

6VAC15-26. Regulations for Human Subject Research (amending 6VAC15-26-10, 6VAC15-26-20, 6VAC15-26-30, 6VAC15-26-50, 6VAC15-26-120, 6VAC15-26-130; adding 6VAC15-26-61, 6VAC15-26-71, 6VAC15-26-81, 6VAC15-26-91, 6VAC15-26-101, 6VAC15-26-102; repealing 6VAC15-26-40, 6VAC15-26-60, 6VAC15-26-70, 6VAC15-26-80, 6VAC15-26-90, 6VAC15-26-100, 6VAC15-26-110, 6VAC15-26-140).

Written public comments may be submitted until December 21, 2012.

Summary:

The proposed amendments update the regulations governing the form and review process for research to be conducted on human subjects with the Department of Corrections. The proposed amendments define the proposed research project information for the researcher to submit, the review process for approval, the agreements and conditions required for conducting an approved research project, the consent required from research subjects, the security of data collected, and the use of research findings.

The proposed amendments also reduce the number of Human Subject Research Review Committee (HSRRC) members from five to three and establish and define the HSRRC as the Department of Corrections committee responsible for (i) reviewing all submitted research projects for completeness and compliance with the Regulations for Human Subject Research, with all applicable Department of Corrections' operating procedures, and with all applicable state and federal regulations pertaining to human subject research; (ii) approving or denying submitted research proposals; (iii) monitoring all approved research projects for adherence to the scope of the research that was approved; and (iv) reporting on all research projects approved, all research projects denied, and the findings of all approved research projects.

For more information, please contact John Britton, Department of Corrections, Richmond, VA, telephone (804) 674-3268 ext. 1241, FAX (804) 674-3590, or email john.britton@vadoc.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

6VAC20-171. Regulations Relating to Private Security Services (amending 6VAC20-171-10, 6VAC20-171-20, 6VAC20-171-30, 6VAC20-171-50 through 6VAC20-171-130, 6VAC20-171-160 through 6VAC20-171-200, 6VAC20-171-215 through 6VAC20-171-320, 6VAC20-171-350 through 6VAC20-171-400, 6VAC20-171-420, 6VAC20-171-445, 6VAC20-171-500, 6VAC20-171-550,

6VAC20-171-560; adding 6VAC20-171-71, 6VAC20-171-72, 6VAC20-171-111, 6VAC20-171-115, 6VAC20-171-116, 6VAC20-171-117, 6VAC20-171-135, 6VAC20-171-305, 6VAC20-171-308, 6VAC20-171-375, 6VAC20-171-376, 6VAC20-171-395; repealing 6VAC20-171-245, 6VAC20-171-430, 6VAC20-171-440).

A public hearing will be held on December 6, 2012, at 9 a.m. at the General Assembly Building in Richmond.

Summary:

The repropoed regulation establishes a licensure, registration, and certification process for locksmiths pursuant to Chapter 638 of the 2008 Acts of Assembly and for detector canine handlers and detector canine handler examiners pursuant to Chapter 470 of the 2004 Acts of Assembly. The regulation establishes a regulatory fee structure; compulsory minimum entry-level training standards, including firearms training and qualifications; standards of conduct; and administration of the regulatory system.

Additionally, amendments (i) rewrite firearms endorsement requirements to include three levels of handgun training and increase training requirements for security officers/couriers to include 10 more hours of firearms training, (ii) increase the hours of training needed for a shotgun endorsement from two to three, (iii) increase the hours needed for renewal of other types of firearms endorsement from two to four, (iv) add new requirements for patrol rifle training, (v) allow businesses that are applying for initial licensure to choose to be licensed for one or two years before they must renew, (vi) add a \$5.00 manual processing fee for applications not submitted through available electronic means, (vii) increase the firearms endorsement fee from \$10 to \$15 per year, (viii) charge training schools a \$50 fee for each training category rather than the flat \$500 fee they currently pay for approval of training materials and charge instructors \$10 per category for each additional certification category, (ix) decrease fees for initial compliance agent certification and compliance agent certification renewal, and (x) require instructors and examiners to complete regulatory compliance entry level and in-service training (fees added for these categories).

For more information, please contact Lisa McGee, Department of Criminal Justice Services, Richmond, VA, telephone (804) 371-2419, FAX (804) 786-6344, or email lisa.mcgee@dcjs.virginia.gov.

STATE BOARD OF JUVENILE JUSTICE

6VAC35-20. Regulations Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs (amending 6VAC35-20-10, 6VAC35-20-30, 6VAC35-20-35, 6VAC35-20-37, 6VAC35-20-50, 6VAC35-20-60, 6VAC35-20-69, 6VAC35-20-75, 6VAC35-20-80, 6VAC35-20-90, 6VAC35-20-92, 6VAC35-20-93, 6VAC35-20-94, 6VAC35-20-100, 6VAC35-20-110, 6VAC35-20-120, 6VAC35-20-150; adding 6VAC35-20-36, 6VAC35-20-36.1, 6VAC35-20-61, 6VAC35-20-85, 6VAC35-20-91, 6VAC35-20-115, 6VAC35-20-200, 6VAC35-20-210, 6VAC35-20-220, 6VAC35-20-230, 6VAC35-20-240; repealing 6VAC35-20-63, 6VAC35-20-65, 6VAC35-20-67).

Written public comments may be submitted until December 7, 2012.

Summary:

The proposed amendments include (i) separating the requirements for the certification of court service units and facilities and the auditing of Virginia Juvenile Community Crime Control Act programs and offices on youth; (ii) making the director or designee responsible for issuing certifications, with oversight by the board, when a program or facility is found in noncompliance with applicable regulatory requirements; (iii) reducing the number of required on-site monitoring visits from two (one announced, one unannounced) to one scheduled per year; (iv) adding a requirement for court service units and facilities to perform self-audits; (v) clarifying preaudit, audit, and postaudit procedures, including setting specific time frames; (vi) incorporating the requirements for corrective action plans and certification audit reports by including some requirements from the existing procedures and practices; (vii) setting specific criteria and parameters regarding issuance of certificates depending on level, duration, and frequency of noncompliance; (viii) adding a requirement for the program's or facility's supervisory or governing authority to be provided with notice of the certification action; (ix) incorporating the parameters for the board's review of programs and facilities found in noncompliance; (x) reworking the section regarding actions following decertification to track statutory authority; and (xi) removing the outdated list of "mandatory standards."

For more information, please contact Janet VanCuyk, Department of Juvenile Justice, Richmond, VA, telephone (804) 371-4097, FAX (804) 371-0773, or email janet.vancuyk@djj.virginia.gov.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

8VAC20-670. Regulations Governing the Operation of Private Day Schools for Students with Disabilities (repealing 8VAC20-670-10 through 8VAC20-670-440).

8VAC20-671. Regulations Governing the Operation of Private Schools for Students with Disabilities (adding 8VAC20-671-10 through 8VAC20-671-780).

A public hearing will be held on November 29, 2012, at 11 a.m. at the James Monroe Bldg. in Richmond. Written public comments may be submitted until December 21, 2012.

Summary:

In response to Chapter 873 of the 2008 Acts of Assembly, the proposed action repeals the Regulations Governing the Operation of Private Day Schools for Students with Disabilities (8VAC20-670) and creates a new chapter, Regulations Governing the Operation of Private Schools for Students with Disabilities (8VAC20-671), to address all applicable requirements for both private day schools and education programs in residential facilities, including group homes. The only change in requirements is an increase in the amount of the required guaranty instrument.

For more information, please contact Dr. Sandra Ruffin, Department of Education, Richmond, VA, telephone (804) 225-2768, FAX (804) 225-2524, or email sandra.ruffin@doe.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

8VAC40-31. Regulations Governing Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates (amending 8VAC40-31-10, 8VAC40-31-30 through 8VAC40-31-60, 8VAC40-31-100 through 8VAC40-31-200, 8VAC40-31-220, 8VAC40-31-260, 8VAC40-31-280, 8VAC40-31-310, 8VAC40-31-320; adding 8VAC40-31-165, 8VAC40-31-193, 8VAC40-31-195; repealing 8VAC40-31-300).

Written public comments may be submitted until December 10, 2012.

Summary:

The proposed regulations (i) exempt certain programs from State Council of Higher Education for Virginia action, (ii) provide specific expectations of faculty and administrator qualifications, (iii) require a school to use generally accepted accounting principles in its financial reporting, (iv) clarify actions that may result in the suspension or revocation of a school's certificate to operate, and (v) describe requirements of a teach-out

arrangement in the event of the closure of a certified school.

For more information, please contact Linda H. Woodley, State Council of Higher Education for Virginia, Richmond, VA, telephone (804) 371-2938, FAX (804) 225-2604, or email lindawoodley@schev.edu.

TITLE 9. ENVIRONMENT

DEPARTMENT OF ENVIRONMENTAL QUALITY

9VAC15-70. Small Renewable Energy Projects (Combustion) Permit by Rule (adding 9VAC15-70-10 through 9VAC15-70-140).

Written public comments may be submitted until December 10, 2012.

Summary:

The proposed regulations establish requirements for permits by rule for combustion energy projects with rated capacity not exceeding 20 megawatts. The proposal establishes requirements for potential environmental impacts analyses, mitigation plans, public participation, permit fees, interagency consultations, compliance, and enforcement.

For more information, please contact Carol C. Wampler, Department of Environmental Quality, Richmond, VA, telephone (804) 698-4579, FAX (804) 698-4346, TTY (804) 698-4021, or email carol.wampler@deq.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

9VAC20-160. Voluntary Remediation Regulations (amending 9VAC20-160-10 through 9VAC20-160-40, 9VAC20-160-60 through 9VAC20-160-120).

A public hearing will be held on November 6, 2012, at 1 p.m. at the Department of Environmental Quality in Richmond. Written public comments may be submitted until November 23, 2012.

Summary:

The proposed action updates current remediation levels and sampling and analysis methods; improves reporting requirements; clarifies eligibility, termination, and application requirements; and updates program procedures to process contaminated sites more efficiently and reflect changes in technology. The action also changes the language for fees so that affected entities will pay \$5,000 at the start of their remediation project and may apply for a refund of any unowed moneys at the end.

For more information, please contact Gary E. Graham, Department of Environmental Quality, Richmond, VA,

telephone (804) 698-4103, FAX (804) 698-4510, or email gary.graham@deq.virginia.gov.

STATE WATER CONTROL BOARD

9VAC25-600. Eastern Virginia Ground Water Management Area (amending 9VAC25-600-10, 9VAC25-600-20).

Public hearings will be held on November 26, 2012, at 1:30 p.m. at the James City County Board Room in Williamsburg and on December 4, 2012, at 2 p.m. at the Spotsylvania County Holbert Building in Spotsylvania. Written public comments may be submitted until January 11, 2013.

Summary:

The proposed amendments expand the Eastern Virginia Groundwater Management Area to include the counties of Essex, Gloucester, King George, King and Queen, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland and those areas of Arlington, Caroline, Fairfax, Prince William, Spotsylvania, and Stafford counties that lie east of Interstate 95.

For more information, please contact Melissa Porterfield, Department of Environmental Quality, Richmond, VA, telephone (804) 698-4234, FAX (804) 698-4346, or email melissa.porterfield@deq.virginia.gov.

9VAC25-610. Groundwater Withdrawal Regulations (amending 9VAC25-610-10, 9VAC25-610-20, 9VAC25-610-40, 9VAC25-610-50, 9VAC25-610-60, 9VAC25-610-70, 9VAC25-610-80, 9VAC25-610-90, 9VAC25-610-100, 9VAC25-610-110, 9VAC25-610-120, 9VAC25-610-130, 9VAC25-610-140, 9VAC25-610-150, 9VAC25-610-160, 9VAC25-610-170, 9VAC25-610-190, 9VAC25-610-220, 9VAC25-610-240, 9VAC25-610-250, 9VAC25-610-260, 9VAC25-610-270, 9VAC25-610-280, 9VAC25-610-290, 9VAC25-610-300, 9VAC25-610-310, 9VAC25-610-320, 9VAC25-610-330, 9VAC25-610-340, 9VAC25-610-350, 9VAC25-610-370, 9VAC25-610-380, 9VAC25-610-390; adding 9VAC25-610-85, 9VAC25-610-92, 9VAC25-610-94, 9VAC25-610-96, 9VAC25-610-98, 9VAC25-610-102, 9VAC25-610-104, 9VAC25-610-106, 9VAC25-610-108; repealing 9VAC25-610-400).

Public hearings will be held on November 26, 2012, at 1:30 p.m. at the James City County Board Room in Williamsburg and on December 4, 2012, at 2 p.m. at the Spotsylvania County Holbert Building in Spotsylvania. Written public comments may be submitted until January 11, 2013.

Summary:

The regulations are amended to be more consistent with current administrative and application processing practices of other water permit program regulations. The application requirements for different types of permits and situations are separated into different regulatory sections to provide more clarity concerning the requirements for complete applications. New sections are added to address surface water and groundwater conjunctive use permits and supplemental drought relief permits. The water conservation and management plan section is revised to specify the conservation measures and requirements that must be met depending on the use of the groundwater. The regulations also now identify information to be provided to ensure that the need for the groundwater is documented and that alternatives to using groundwater are investigated and considered. A section is added allowing the agency to estimate an area of impact for mitigation of a small withdrawal based on available modeled information instead of requiring geotechnical investigations to occur. The regulations are also revised to be consistent with current agency guidance concerning the 80 percent drawdown criteria evaluation. Additional permit conditions are specified in the regulations that will be applicable to all permits, which will clarify the requirements that groundwater withdrawers must meet.

For more information, please contact Melissa Porterfield, Department of Environmental Quality, Richmond, telephone (804) 698-4238, FAX (804) 698-4346, or email melissa.porterfield@deq.virginia.gov.

9VAC25-740. Water Reclamation and Reuse Regulation (amending 9VAC25-740-10, 9VAC25-740-30 through 9VAC25-740-180, 9VAC25-740-200; adding 9VAC25-740-45, 9VAC25-740-55, 9VAC25-740-105).

A public hearing will be held on December 13, 2012, at 2 p.m. at the Department of Environmental Quality in Glen Allen. Written public comments may be submitted until January 11, 2013.

Summary:

Amendments to the Water Reclamation and Reuse Regulation (9VAC25-740) address issues to improve the board's ability to effectively promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment and public health. Amendments would allow (i) design or operational deviations for facilities still capable of producing or distributing reclaimed water in a manner protective of the environment and public health and (ii) temporary authorization of water reclamation and reuse without a permit during periods of significant drought. These amendments are needed to improve implementation of

the regulation and to further promote and encourage water reclamation and reuse.

For more information, please contact William K. Norris, Department of Environmental Quality, Richmond, VA, telephone (804) 698-4022, FAX (804) 698-4347, or email william.norris@deq.virginia.gov.

**TITLE 12. HEALTH
STATE BOARD OF HEALTH**

12VAC5-507. Nursing Scholarships and Loan Repayment Program Requiring Service in a Long-Term Care Facility (adding 12VAC5-507-10 through 12VAC5-507-260).

Written public comments may be submitted until December 21, 2012.

Summary:

The 2000 Acts of Assembly amended § 32.1-122.6:01 of the Code of Virginia to require the establishment of a program under which participants can receive scholarship or educational loan repayment in exchange for a period of nursing service in a long-term care facility in the Commonwealth. By providing these scholarship or loan repayment funds to eligible recipients, Virginia hopes to reduce its nursing shortage, especially in long-term care facilities. Until now, regulations for this section of the Code of Virginia have not been promulgated because no funding has been available to implement this program.

For more information, please contact Aileen Harris, Department of Health, Richmond, VA, telephone (804) 864-7436, or email aileen.harris@vdh.virginia.gov.

12VAC5-540. Rules and Regulations for the Identification of Medically Underserved Areas in Virginia (amending 12VAC5-540-10 through 12VAC5-540-40).

Written public comments may be submitted until December 21, 2012.

Summary:

The proposed amendments (i) automatically designate the state facilities operated by the Departments of Corrections, Juvenile Justice, and Behavioral Health and Developmental Services as Virginia Medically Underserved Areas (VMUA); (ii) update the data sources to be used in computing VMUA designations and establish a minimum of five years for the update and renewal cycle for designations; and (iii) remove outdated information regarding scholarship programs that are affected by the designation.

For more information, please contact Kenneth Studer, Department of Health, Richmond, VA, telephone (804) 864-7428, or email ken.studer@vdh.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

12VAC30-120. Waivered Services (amending 12VAC30-120-360, 12VAC30-120-370, 12VAC30-120-380).

Written public comments may be submitted until November 23, 2012.

Summary:

This action incorporates changes that have been approved by the Centers for Medicare and Medicaid Services to the Virginia Medicaid managed care waiver program entitled Medallion II (MCO). The approved changes concern the addition of the rural exception to the Medallion II program in areas federally designated as "rural" where there is only one contracted MCO. The changes also provide for several organizational improvements and update internal citations.

For more information, please contact Brian McCormick, Department of Medical Assistance Services, Richmond, VA, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

12VAC30-120. Waivered Services (amending 12VAC30-120-900, 12VAC30-120-920, 12VAC30-120-930; adding 12VAC30-120-905, 12VAC30-120-924, 12VAC30-120-935, 12VAC30-120-945, 12VAC30-120-990, 12VAC30-120-995; repealing 12VAC30-120-910, 12VAC30-120-940, 12VAC30-120-950, 12VAC30-120-960, 12VAC30-120-970, 12VAC30-120-980).

Written public comments may be submitted until December 7, 2012.

Summary:

The proposed amendments to the home and community-based Elderly or Disabled with Consumer Direction (EDCD) Waiver program provide for the following changes: (i) allowing for Licensed Practical Nurses (LPNs) to supervise, as permitted by their professional licenses, personal care aides under agency-directed personal care and respite care services; (ii) requiring personal care agencies to ensure that the personal care aide has the required skills and training to perform services as specified in the individuals supporting documentation (plan of care); (iii) reflecting replacement of the DMAS-122 form with the Medicaid Long-Term Care

Communication Form (DMAS-225) along with the use of an automated electronic system for providers' use; (iv) removing licensing-type standards that apply to the physical plant of the adult day health care center; (v) permitting providers more time to secure service verification signatures; (vi) permitting providers to document reasonable variances from waiver individuals' plans of care, and (vii) providing for person-centered planning.

Based on the personal care agency's assessment of the waiver individual, further changes will (i) permit longer periods of time between supervising Registered Nurse/Licensed Practical Nurse (RN/LPN) supervisory visits; (ii) add new standards for the new supervisory provider type of LPN that are consistent with licensing statute and regulations; (iii) permit alternative methods of personal care aide service documentation; and (iv) make the Medicaid contracted fiscal/employer agent responsible for obtaining criminal record checks for personal care aides in consumer-directed services.

The Department of Medical Assistance is proposing a universal format for all of its waiver regulations to facilitate provider participation across more than one waiver. As such, some existing regulation sections are being repealed with the content being merged into new sections in support of this new format.

For more information, please contact Elizabeth Smith, RN, Department of Medical Assistance Services, Richmond, VA 23219, telephone (804) 786-0569, FAX (804) 786-1680, or email elizabeth.smith@dmas.virginia.gov.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD FOR CONTRACTORS

18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-30).

A public hearing will be held on November 2, 2012, at 11 a.m. at the Department of Professional and Occupational Regulations in Richmond. Written public comments may be submitted until December 21, 2012.

Summary:

These proposed amendments add a new specialty to incorporate businesses that perform work related to the Certified Accessibility Mechanic program and amend the manufactured home specialty to comply with changes to the Code of Federal Regulations by the U.S. Department of Housing and Urban Development.

For more information, please contact Eric L. Olson, Board for Contractors, Richmond, VA, telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

BOARD OF NURSING

18VAC90-20. Regulations Governing the Practice of Nursing (amending 18VAC90-20-10, 18VAC90-20-220; adding 18VAC90-20-221, 18VAC90-20-222).

A public hearing will be held on November 13, 2012, at 9 a.m. at the Department of Health Professions in Henrico. Written public comments may be submitted until December 7, 2012.

Summary:

The proposed amendments establish requirements for continuing competency activities or courses in order to renew an active license as a registered nurse or a practical nurse each biennium. The options available include a refresher course, postlicensure academic course, current specialty certification, research and teaching, active practice for 640 hours and 15 hours of courses, or 30 hours of approved courses. The entities and organizations that can recognize or approve a continuing education provider are listed in regulation.

Regulations provide an exemption for nurses who have an active license as a nurse practitioner and for the second license if someone is licensed as an RN and LPN. Finally, there is a requirement for documentation of completion to be maintained for two years following renewal, and the documentation required for each type of activity or requirement is specified.

For more information, please contact Jay P. Douglas, RN, Board of Nursing, Richmond, VA 23233-1463, telephone (804) 367-4515, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

18VAC120-30. Regulations Governing Polygraph Examiners (amending 18VAC120-30-30, 18VAC120-30-40, 18VAC120-30-70, 18VAC120-30-100, 18VAC120-30-110, 18VAC120-30-160, 18VAC120-30-170, 18VAC120-30-180, 18VAC120-30-200, 18VAC120-30-220, 18VAC120-30-230, 18VAC120-30-240, 18VAC120-30-260, 18VAC120-30-270, 18VAC120-30-300).

A public hearing will be held on November 2, 2012, at 10 a.m. at the Department of Professional and Occupational Regulation in Richmond. Written public comments may be submitted until December 7, 2012.

Summary:

The proposed amendments (i) change the size of the Polygraph Examiners Advisory Board, (ii) allow an applicant to take portions of the examination at different dates within a one-year period, (iii) clarify renewal and reinstatement requirements; and (iv) provide for a procedure to be used in the event that an

examiner supervising an intern is unable to provide verification of experience.

For more information, please contact Eric L. Olson, Polygraph Examiners Advisory Board, Richmond, VA 23233, telephone (804) 367-6166, FAX (804) 527-4401, or email polygraph@dpor.virginia.gov.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS STATE CORPORATION COMMISSION

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

20VAC5-201. Rules Governing Utility Rate Applications and Annual Informational Filings (amending 20VAC5-201-10, 20VAC5-201-20, 20VAC5-201-50, 20VAC5-201-90).

A public hearing will be held on November 19, 2012, at 10 a.m. at the State Corporation Commission in Richmond. Written public comments may be submitted until November 9, 2012.

Summary:

Section 56-585.1 A 2 c of the Code of Virginia establishes a performance incentive for investor-owned incumbent electric utilities, which authorizes the State Corporation Commission to increase or decrease a utility's combined rate of return on common equity by up to 100 basis points for generating plant performance, customer service, and operating efficiency as compared to nationally recognized standards determined by the commission to be appropriate for such purposes. The proposed amendments implement the performance incentives by requiring investor-owned incumbent electric utilities to file data pertaining to their generating plant performance, customer service, and operating efficiency with their biennial review applications.

For more information, please contact Tim Lough, State Corporation Commission, Richmond, VA 23218, telephone (804) 371-9590, FAX (804) 371-9350, or email tim.lough@scc.virginia.gov.

**TITLE 22. SOCIAL SERVICES
STATE BOARD OF SOCIAL SERVICES**

22VAC40-730. Investigation of Child Abuse and Neglect in Out of Family Complaints (amending 22VAC40-730-10, 22VAC40-730-20, 22VAC40-730-30, 22VAC40-730-40, 22VAC40-730-60, 22VAC40-730-70, 22VAC40-730-80, 22VAC40-730-90, 22VAC40-730-100, 22VAC40-730-110, 22VAC40-730-115, 22VAC40-730-130).

Written public comments may be submitted until December 21, 2012.

Summary:

The State Board of Social Services proposes to amend its regulation governing the investigation of child abuse and neglect in out-of-family complaints to make definitions and regulatory language consistent between this regulation and the regulation that governs child protective services (22VAC40-705).

For more information, please contact Mary Walter, Department of Social Services, Richmond, VA 23219, telephone (804) 726-7569, FAX (804) 726-7499, TTY (800) 828-1120, or email mary.walter@dss.virginia.gov.

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

Written public comments may be submitted until November 23, 2012.

Summary:

The proposed action (i) clarifies regulation content that may be confusing or unclear; (ii) comports regulation text with guidance on the data entry requirements in the adult services/adult protective services web-based case management and reporting system; (iii) adds a review by the commissioner's designee of the request to impose a civil penalty; and (iv) adds a new section to address notifications to alleged perpetrators and the right of the perpetrator to request a review of the local department of social services' investigation findings that result in one of the following dispositions: needs protective services and accepts, needs protective services and refuses, or need for protective services no longer exists.

For more information, please contact Paige McCleary, Department of Social Services, Richmond, VA, telephone (804) 726-7536, FAX (804) 726-7895, TTY (800) 828-1120, or email paige.mccleary@dss.virginia.gov.

**TITLE 24. TRANSPORTATION AND MOTOR
VEHICLES**

VIRGINIA AVIATION BOARD

24VAC5-20. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia (amending 24VAC5-20-10, 24VAC5-20-120 through 24VAC5-20-280, 24VAC5-20-300, 24VAC5-20-330).

A public hearing will be held on November 16, 2012, at 10 a.m. at the Metropolitan Washington Airports Authority in Dulles. Written public comments may be submitted until November 23, 2012.

Summary:

The proposed regulatory action (i) aligns the state airport licensing requirements more closely with Federal Aviation Administration standards; (ii) provides a new process to address noncompliant conditions, including issuance of a new "Day/Visual Flight Rule Use Only" conditional airport license; (iii) updates procedural information and citations; (iv) reduces redundancy; and (v) provides consistency throughout the chapter.

For more information, please contact Susan H. Simmers, Department of Aviation, Richmond, VA, telephone (804) 236-3632 ext. 105, FAX (804) 236-3635, or email susan.simmers@doav.virginia.gov.



Division of Legislative Services

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