



July 2015 Issue

Activities of Virginia Legislative Study Commissions and Joint Subcommittees During the Legislative Interim



Virginia Division of Legislative Services

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The *Virginia Legislative Record* is a report of the activities of Virginia legislative study commissions and joint subcommittees, reflecting the ongoing deliberations and recommendations of interim legislative studies. Meeting summaries were prepared by the staff of the Division of Legislative Services. More information concerning the individual commissions and committees is available on the DLS website (<http://dls.virginia.gov/>) or by calling 804-786-3591.

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Regulation Information

The *Virginia Register of Regulations* is Virginia's official publication of proposed, final, and emergency regulations. All regulations must be filed with the Registrar of Regulations to become law. The *Virginia Register*, published every other Monday, provides a snapshot of all regulatory activity in Virginia. The current *Register* issue, as well as prior issues and additional information about the regulatory process in Virginia, is available at <http://register.dls.virginia.gov>. Contact the Division of Legislative Services at 804-786-3591 (ext. 258, 261, or 262) or follow the *Virginia Register* on Twitter @varegs for more information.

Virginia Bicentennial of the War of 1812 Commission

July 15, 2015

The Virginia Bicentennial of the War of 1812 Commission, chaired by Delegate M. Kirkland Cox, met on December 8, 2014, in Richmond to review its bicentennial activities and prepare for the expiration of the Commission in 2015. The Commission received a status report of its bicentennial activities; discussed additional historical highway markers planned for the Virginia War of 1812 Heritage Trail, preservation of the Commission's website, disposition of the Commission's license plate program, and whether to reprint visitor brochures; and organized its final bicentennial event, the dedication of a memorial to the Petersburg Volunteers, who fought during the War of 1812 and are buried at Fort Meigs, Ohio.

At its July 15, 2015, meeting, the Commission agreed to preserve and continue updating its website for use by students, teachers, researchers, and the public. Members of the Commission and the Citizen Advisory Council attended (i) the annual wreath-laying ceremonies for Presidents James Madison, James Monroe, and John Tyler and other Virginians who made outstanding contributions during the war and (ii) the dedication of historical highway markers. Stuart Butler, historian and member of the Commission's Citizen Advisory Council, represented the Commission and the Commonwealth at the dedication of the memorial at Fort Meigs, the concluding bicentennial event, on May 23, 2015.

The Commission expired on June 30, 2015.

Virginia Bicentennial of the War of 1812 Commission

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Virginia Code Commission

May 4, 2015

The Virginia Code Commission (Commission) met on May 4, 2015, with Senator John Edwards, chair, presiding.

Remaining compacts issues

Nicole Brenner, Attorney, Division of Legislative Services

Nicole Brenner reported on the last remaining issues pertaining to the Commission's decision to set out the full text of compacts in the Code of Virginia. In the 2015 Session of the General Assembly, three compacts were repealed as no longer effective. Also in that session, the General Assembly adopted a compact regarding Interstate 73, but the compact will not be effective in Virginia until other partnering states adopt the compact. The Code Commission agreed with Ms. Brenner's recommendation to list the Interstate 73 compact on the Virginia Law Portal (<http://law.lis.virginia.gov/>) but not add it to the Code of Virginia since it is not yet effective.

Ms. Brenner reviewed the three remaining compacts that are not currently codified: the Southeastern Interstate Forest Fire Protection Compact, the Middle Atlantic Interstate Forest Fire Protection Compact, and the Nonresident Violator Compact of 1977. At Ms. Brenner's request, the Commission reconsidered its decision to codify the forest fire compacts until the existing Code of Virginia sections that incorporate the compacts by reference are repealed. Ms. Brenner will present a draft to repeal the existing sections and to set out the compacts in full in the Code of Virginia at a future meeting. Karen Grimm, Department of Motor Vehicles (DMV), addressed the Commission regarding the nonresident violator compact; she advised the Commission that the compact is outdated and that DMV would like to withdraw from the 1977 compact and enter into a new one. Ms. Brenner indicated that this compact will likely be addressed in the 2016 Session of the General Assembly pending further information from the DMV.

Letter from House Courts Requesting Review of HB 1600 (2015, Simon) and SB 1211 (2015, Ebbin) Pertaining To Use of Gender-specific References in the Code of Virginia

Delegate Marcus Simon

Delegate Simon, patron of House Bill 1600, explained that this administration bill was intended to revise references to certain gender-specific terms in the Code of Virginia to bring Virginia's statutory code into the 21st century. Although the bills are not identical, House Bill 1600 and Senate Bill 1211 both revise references to certain gender-specific terms in the Code of Virginia in light of the 2014 *Bostic v. Rainey* decision, which changed the definition of what constitutes a marriage. The House Courts of Justice Committee tabled both bills and requested that the Code Commission review the bills and make suggestions for clarification or improvement. Although Delegate Simon believes the bills are sufficient as drafted, he suggested that the Code Commission may want to review every instance of "husband" and "wife," as well as other gender-specific terms, in the Code of Virginia.

Delegate Habeeb, a member of the House Courts of Justice Committee, gave additional background on the bill. Delegate Habeeb stated that the Civil Courts Subcommittee recommended tabling the bills for several reasons, including the pending ruling from the U.S. Supreme Court on same-sex marriage and the need to evaluate the best method of implementing gender-specific reference changes in the Code of Virginia.

Delegate Habeeb suggested that the Commission wait for the upcoming U.S. Supreme Court ruling in *Obergefell v. Hodges* before moving forward.

Senator Edwards directed staff to perform a keyword search of the Code of Virginia, compile a list of Code sections that contain gender-specific terms, identify any complexities or potential unintended consequences, and report back to the Commission. The Commission will revisit this issue after the U.S. Supreme Court rules on the same-sex marriage issue.

Recodification of Title 23, Educational Institutions

Ryan Brimmer and Tom Stevens, Attorneys, Division of Legislative Services

Mr. Brimmer presented proposed Chapters 1 (Definitions; General Provisions), 2 (State Council of Higher Education of Virginia), and 3 (Virginia Higher Education Opportunity Act).

The Commission extensively discussed a number of the defined terms in Chapter 1. The discussion highlighted newly defined terms "four-year public institutions" and "two-year public institutions." Staff indicated that these terms are added because they are used throughout current Title 23. The members discussed the use of the word "includes" and whether the listing of universities by name should be



removed. In response to Delegate LeMunyon's inquiry as to whether any institutions were not included in the list, staff replied that the list is not exclusive because of the statutory rule of construction in § 1-218, which states, "'Includes' means includes, but not limited to." The discussion concluded with the Commission directing staff to consult with interested parties about all expressed concerns and return with a recommendation at a future meeting.

The Commission also listened to staff recommendations and discussed proposed Chapters 26 (Virginia Polytechnic Institute and State University), 28 (College of William and Mary in Virginia; Richard Bland College), and 29 (State Board for Community Colleges).

Selection of Code of Virginia Title for Next Recodification

Ms. Chaffin advised the Commission that selection of the next Code of Virginia title for recodification was presented at the April 6, 2015, meeting, at which time staff was asked to solicit public comment. No comments were received.

Regarding the candidacy of Title 8.01, Mr. Tavenner stated that when Title 8 was recodified to the current Title 8.01 the process took five years and outside counsel was employed. There is some concern that the recodification of Title 8.01 may raise sufficient political concerns such that the recodification bill would not pass during the legislative session. Considering the selection criteria, DLS staff suggests Title 55 or Title 20 for the next recodification. The Chair deferred the matter in light of Delegate Habib's interest in Title 8.01 and his absence from the discussion.

On a related matter, the Commission revisited the letter from Delegate Tom Rust relating to referencing all statutes of limitations in Title 8.01. This letter was previously discussed at the April meeting. DLS staff advised the Commission that the index in the Code of Virginia contains an exhaustive list under statutes of limitations, limitations of action, and limitations of repose. The consensus of the Commission was that the listing in the Code of Virginia index addresses the issue in Delegate Rust's letter, at least in the short term.

Overview of Code Commission Responsibility - Part I--Virginia Register Act and Administrative Process Act

Karen Perrine, Assistant Registrar of Regulations, Division of Legislative Services

At the Code Commission's last meeting, staff was requested to provide information on the Code Commission's authority and responsibilities. Staff will present this information in two parts -- Virginia Register Act (VRA) and Administrative Process Act (APA) at this meeting and the Code of Virginia at a later meeting.

Ms. Perrine reviewed a handout outlining the Code Commission authority and responsibilities related to the VRA and APA. She explained that under the Code Commission's basic law, the Code Commission is responsible for publishing and maintaining the Virginia Administrative Code (VAC) and the Virginia Register of Regulations (Register); making minor changes to VAC; and monitoring the APA and the VRA, which includes the appointment of the Administrative Law Advisory Committee.

The VRA requires the Code Commission to publish a list of agency guidance documents, designates the Registrar's Office as the central repository for state agency regulations, and gives the Code Commission the authority to adopt regulations to carry out the purpose of the VRA.

The APA establishes additional duties of the Registrar. For example, the Registrar determines the applicability of the exemption to the APA contained in subdivision of § 2.2-4006 A 4 c regarding

regulations that are necessary to meet the requirements of federal law or regulations, provided that the regulations do not differ materially from those required by federal law or regulation. The Registrar and her staff review proposed regulation packages to verify that certain statutory requirements are met. The Registrar's office also functions as the central repository for proposed and final regulations and related information. The APA also contains a specific provision regarding the Register that requires the Registrar to publish the Virginia Register every two weeks and outlines the information to be included.

In response to a question, Ms. Chaffin explained the organization of the titles in the VAC and the detailed review process by her office once a proposed or final regulation is submitted for publication in the Register.

Next Meeting

The Commission met on Monday, July 20, 2015, and is scheduled to meet on Wednesday, August 19, 2015.

Virginia Code Commission

Senator John S. Edwards, Chair

Jane Chaffin, DLS Staff

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Dr. Martin Luther King, Jr. Memorial Commission

August 7, 2014–July 6, 2015

The Dr. Martin Luther King, Jr. Memorial Commission met several times between August 7, 2014, and May 19, 2015, in Richmond to develop criteria for and issue the RFPs for the Emancipation Proclamation and Freedom Memorial; meet with artists and sculptors regarding their proposals for the memorial; discuss proposals for collaboration with the Virginia 1619–2019: Making of America Conference with Norfolk State University and Hampton University; review and update its African American Legislators Project; organize the board of directors for the § 501(c)(3) nonprofit Martin Luther King, Jr. Emancipation Proclamation and Freedom Memorial; deliberate with staff of the Library of Virginia concerning the Commission's project "Family Reunion: Descendants of Virginia's African American Underwood Constitutional Convention Delegates and Reconstruction Legislators," the Library's Sixth Annual Ann & Ryland Brown Teacher Institute, and the exhibition and website *Remaking Virginia: Transformation Through Emancipation*; and plan the Commission's symposium to commemorate the 50th anniversary of the Voting Rights Act of 1965.

Annual Community Leaders Breakfast

The Commission was represented at the Annual Community Leaders Breakfast that is held to honor the legacy of Dr. Martin Luther King, Jr., on the occasion of his birthday. The Commission agreed to strive for enhanced visibility of its presence and work in the community and among public and private schools and institutions of higher education to educate future generations concerning the legacy of Dr. King. The Commission also reviewed and approved its work plan for the 2015 interim.



Emancipation Proclamation and Freedom Memorial

The Commission and its Emancipation Proclamation and Freedom Memorial Subcommittee continued to meet jointly with its advisors, which included representatives of the City of Richmond, the Department of General Services (DGS), and the Senate Committee on Finance, to coordinate the process and procedures for the establishment of the memorial between the Commission and the City. The Commission requested certain modifications in two proposed models; however, because a consensus could not be reached on a model, the RFP for the memorial was reissued. Proposals from the second RFP were submitted and reviewed on May 19, 2015. The Commission selected four of the six proposals submitted and will consider scaled models of those proposals when it meets in September 2015 for the second phase of the RFP, final selection of an artist or sculptor. After a finalist has been selected and notified, the Commission will begin, in coordination with the City and DGS, the fundraising and construction process.

Dr. Martin Luther King, Jr. Emancipation Proclamation and Freedom Memorial Board of Directors

A § 501(c)(3) nonprofit organization was established to provide oversight of and support for and to engage in fundraising activities for the memorial. A board of directors was affirmed and officers were elected. A discussion ensued regarding how to proceed with fundraising for the memorial. A motion was approved that the Virginia Foundation for the Humanities and Public Policy would act as the board's fiscal agent until the board has received federal status as a § 501(c)(3) nonprofit organization. Articles of incorporation, bylaws, and a conflict of interests statement were approved by the board. Kirk T. Schroder, J.D., Ph.D., board secretary, and staff were directed to continue any work necessary to ensure completion of requisite forms for the filing of the board's application for tax-exempt status as a nonprofit organization under state and federal laws, including filing with the Department of Agriculture and Consumer Services to enable fundraising and solicitations by the board.

1619–2019: Making of America Conference

The Commission, Norfolk State University, and Hampton University cosponsored the NEH-funded 1619–2019: Making of America Conference, which was held at Norfolk State University on September 18–20, 2014. The conference, designed to provide continuing professional teacher education, focused on the major events that occurred in 1619 in Virginia, including the arrival of Africans to colonial North America; the founding of America's first legislative body, the House of Burgesses; and the establishment of a viable economy based on tobacco. Approximately 1,000 attendees heard expert presentations on topics in law, medicine, history, political science, geography, genetics, and literature. Teachers from Newport News, Norfolk, Portsmouth, Isle of Wight, Richmond, and Virginia Beach, as well as students from each partner university, attended the conference. In preparation for the 400th anniversary of the events of 1619, the conference series will continue annually. In September 2015, the conference theme will be "When Did We Become Americans?"

Remaking Virginia: Transformation Through Emancipation

The Commission and the Library of Virginia (the Library) entered into a partnership for the commemoration of the 150th anniversary of the Emancipation Proclamation that includes a website at the Library; publicity via print, broadcast, and social media; an exhibition; the Sixth Annual Ann & Ryland Brown Teacher Institute, which features instruction on the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution; the "Family Reunion: Descendants of Virginia's African American Underwood Convention Delegates and Reconstruction Legislators" project; and a

symposium, “50th Anniversary of the Voting Rights Act of 1965: Protecting, Extending, and Ensuring the Franchise.” Collaboration on the planning for the Teacher Institute is under way. Using the theme “The Reconstruction Amendments and Their Legacy,” teachers from across the state will learn how to use primary sources to enhance student learning during the two-day Institute on August 3–4, 2015, in Richmond. Continuing the theme of Emancipation, the Commission held a day-long program on July 6, 2015, in Richmond to honor and celebrate the descendants of 19th-century African American legislators. Descendants from across the United States gathered at the State Capitol, were led on the Slave Trail Walk, toured the State Capitol, viewed the Library’s exhibition, participated in document scanning, provided oral histories, had their portraits taken, reunited with relatives, enjoyed a private reception, and attended an open forum on the legacy of their ancestors.

On August 3, 2015, the Commission and the Library will cosponsor a symposium commemorating the 50th anniversary of the Voting Rights Act of 1965. A panel of eminently qualified historians, jurists, attorneys, professors, civil rights activists, and journalists has been assembled to discuss the historical context of the Voting Rights Act of 1965; the effect of the Act on voting laws; the effects of recent and proposed laws on the right to vote following the Supreme Court’s decision in *Shelby County, Alabama v. Holder*, 133 S. Ct. 2612 (2013), which struck down use of the coverage formula in Section 4(b) of the Act to determine which states and local governments are subject to the preclearance requirement under Section 5; and the future of voting and civil rights, particularly for African Americans and other minorities.

The Commission agreed to meet again in September 2015.

Dr. Martin Luther King, Jr. Memorial Commission

Delegate Jennifer L. McClellan, Chairwoman

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Commission on Electric Utility Regulation

July 13, 2015

The Commission on Electric Utility Regulation met on July 13, 2015, to receive information from the Commonwealth’s two largest investor-owned electric utilities on the status of activities and recent developments. After electing Delegate Jackson Miller to serve as the Commission’s vice chairman, the Commission began examining issues raised by Senate Bill 1396 and Senate Joint Resolution 300, both of which pertain to Virginia’s municipal electric utilities.

Dominion Update

Dan Weekley, Vice President for Corporate Affairs at Dominion, reported to the Commission that, as a result of Dominion’s implementation of Senate Bill 1396 of the 2015 Session, customers’ rates were reduced on April 1 to reflect declining fuel prices. The monthly bill for a typical residential consumer using 1,000 kWh declined 5.6 percent to \$109.48, 20 percent below the national average, 30 percent below the East Coast average, and 41 percent below the average of the rates of states participating in the Regional Greenhouse Gas Initiative (RGGI). The rate for an industrial customer with 1,000 kW demand



and 650,000 kWh usage fell 9.8 percent, from 6.1 cents/kWh to 5.5 cents/kWh. This rate is 40 percent below the national average, 55 percent below the East Coast average, and 64 percent below the average of the rates of states participating in the RGGI.

Mr. Weekley also lauded his company's improvements in reliability. Excluding outages due to major storms, the average number of minutes a customer was without service, based on a three-year rolling average, fell to 111 minutes per year for 2012-2014. Part of the increase in reliability was attributed to the utility's 10-year strategic undergrounding program, under which it will spend approximately \$15 million annually.

With respect to new generation capacity, Mr. Weekley brought the Commission up to date on numerous projects that are under construction or planned, including natural gas fired combined cycle facilities in Brunswick and Greenville Counties and a solar facility in Remington. Per its Integrated Resource Plan filed July 1, 2015, Dominion is evaluating four alternative plans (solar, natural gas co-firing of eight coal powered units, additional nuclear, and wind) that will comply with the pending federal Clean Power Plan regulations.

According to Mr. Weekley, the Commonwealth currently sits "in a doughnut hole" with regard to natural gas infrastructure, as demonstrated by the fact that the price paid by Dominion for natural gas on several occasions in February 2015 was up to 14 times higher than prices at the Gulf Coast hub. He reported that the route application for the Atlantic Coast Pipeline will be filed with the Federal Energy Regulatory Commission in the fall of this year, and the pipeline is expected to be in service in late 2018. The pipeline is expected to bring 8,800 construction jobs, \$243 million in annual energy savings, over \$10 million in annual property tax revenue, and economic development. The percentage of miles in the pipeline's corridor for which surveying permission has been granted, for Virginia localities, ranges from 36.1 percent in Nelson County to 99 percent in Southampton County. In response to questioning from Senator Watkins, the Dominion spokesman denied that the company had any plans to export natural gas transmitted via the pipeline to foreign customers.

APCO Update

Ron Jefferson, Manager of External Affairs for Appalachian Power Company (APCO), focused his remarks on the utility's investments in generation facilities. APCO is in the process of converting two coal units at Clinch River to natural gas. The utility has finalized several power purchase agreements for wind and hydro energy. APCO's 2015 Integrated Resource Plan reveals that between 2015 and 2029, the share of the company's generating capacity from coal facilities is expected to decline from 72 percent to 52 percent. The decline will be offset by expected increases in energy from natural gas (from 14 to 23 percent) and wind (from one to 15 percent).

Other major investments being undertaken by APCO include the expansion of transmission capacity at its Cloverdale Station and the implementation of its distribution line vegetation management program, which will reduce outages from tree damage. Mr. Jefferson reported that the utility's residential rates have remained stable over the 2010-2015 period, during which rates dropped from 11.56 cents/kWh to 11.49 cents/kWh. Its industrial rates, which average about 6.5 cents/kWh, were reported to be in line with the rates charged by utilities in North Carolina.

Municipal Electric Utilities: Senate Bill 1396 and Senate Joint Resolution 300

The balance of the meeting was allotted to consideration of Senate Bill 1396, which was passed by with letter in the Senate Local Government Committee, and Senate Joint Resolution 300, which was passed

by with letter in the Senate Rules Committee. Senator Bill Stanley was the patron of both measures. In each case, the Clerk of the Senate advised Senator Norment that the subject matter contained in the item was referred to the Commission and requested that the standing committee chair and the patron receive a written report by November 1, 2015.

SB 1396 would authorize Danville and Martinsville, by ordinance adopted by an affirmative vote of two-thirds of all of its members, to abolish all or part of its utilities, sell all or part of its utilities (including all of its related assets) or transfer the functions thereof, to an investor-owned utility, a merchant utility service provider, or a cooperative regulated by the State Corporation Commission (SCC), if it is found to be in the public interest. The bill contains a second enactment requiring the Commission, the SCC, and the Attorney General to report to the House and Senate Commerce and Labor Committees by November 22, 2015, on tax practices, return on investment practices, purchase power practices, regional congestion pricing practices, and general municipal utility efficiencies that have led to higher costs for some municipal electric utility and natural gas consumers compared with average statewide consumers.

The Commission was advised that SB 1396 as introduced raises several legal and practical issues, including the apparent conflict with the requirement of Article VII, Section 9 of the Constitution of Virginia, which prohibits a city or town from selling its electric works except by vote of three fourths of all elected members of the governing body. To the extent that the genesis of the legislation was concern with the electric service rates of municipals, staff provided comparisons of the residential, commercial, and industrial rates of Virginia's investor-owned, distribution cooperative, and municipal electric utilities. The figures for residential bills, based on a hypothetical customer with monthly usage of 1,000 kWh, show that of the 10 most expensive utilities, eight are cooperatives and two are municipals. Of the 10 least expensive utilities, eight are municipals, one is a cooperative, and one (KU) is investor-owned.

For a hypothetical customer in the commercial class with 40 kW demand and consumption of 10,000 kWh, of the 10 most expensive utilities, five are cooperatives and five are municipals. Of the 10 least expensive utilities, four are cooperatives, three are municipals, and three are investor-owned.

Tables were prepared for industrial customers at two usage levels. For the first, with a hypothetical customer in the industrial class with 1,000 kW demand and consumption of 400,000 kWh, seven of the 10 most expensive utilities are cooperatives and three are municipals. Of the 10 least expensive utilities, five are municipals, two are cooperatives, and three are investor-owned. The second level of industrial usage was for a larger hypothetical customer with the same demand (1,000 kW) but with consumption of 650,000 kWh. Of the 10 most expensive utilities, the distribution is the same as with the smaller industrial users: seven are cooperatives and three are municipals. Of the 10 least expensive utilities, six are municipals, one is a cooperative, and three are investor-owned. Seven of the 16 municipals did not have industrial customers in the two levels of usage.

Senate Joint Resolution 300

SJR 300 directs the Commission to study whether the SCC should have the authority to regulate the rates of municipal electric utilities. The resolution specifically tasks the Commission with determining:

1. Whether SCC regulation or review of the rates charged by municipal electric utilities would be permitted under the Constitution of Virginia;
2. If so, whether the General Assembly should direct the SCC to regulate such rates; and
3. If not, whether the Constitution of Virginia should be amended to permit SCC to regulate the rates charged by municipal electric utilities.



The General Assembly's authority to make municipal utilities subject to regulation by the SCC was the subject of a formal opinion letter issued by the Attorney General to Senator Frank Wagner on July 2, 2015. Under Article IX, Section 2 of the Constitution of Virginia, the SCC, subject to requirements prescribed by law, is given the power and is charged with the duty of regulating the rates, charges, and services of electric companies. Article IX, Section 7 of the Constitution of Virginia states that the term "corporation" or "company" as used in Article IX shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the Commonwealth. The Attorney General opined that Article IX, Section 7 is not a limitation on the power of the General Assembly, and that therefore the General Assembly may enact a general law requiring the SCC to regulate the rates, charges, and services of electric utilities operated by municipal corporations.

Staff noted that if the Commission was persuaded that the Attorney General's opinion resolved the question of whether the General Assembly could direct the SCC to regulate municipal electric utilities, the question of whether it should do so poses a number of complex issues, ranging from whether the SCC's role would be to review the reasonableness of legislative decisions of municipal governments in setting rates to questions of what would be the appropriate methodologies to be used by the SCC in setting rates of a municipal utility.

Senator Stanley recounted that the high electric rates charged by Danville and Martinsville were largely the result of their membership in Ohio-based American Municipal Power (AMP). AMP's ventures with the Prairie States and Miegs County plants, coupled with fees levied by systems operators as a result of grid congestion, have contributed to Danville's comparatively expensive power. High residential rates are a substantial burden on residents of a region with high rates of poverty and unemployment, and high commercial and industrial rates are preventing new businesses from locating in the area and threatening the viability of businesses that are currently operating in the city. Senator Stanley noted that Danville has explored the possibility of transferring a portion of its electric utility to APCO and explained that one objective of SB 1396 was to give municipalities the flexibility to dispose of part, but not all, of its utility.

Brett Vassey of the Virginia Manufacturers Association spoke in favor of Senator Stanley's legislation. He suggested that the disparity in electricity prices for industrial and commercial users served by municipal utilities is not limited to Danville and that the municipalities would benefit from the SCC's resources. Mr. Vassey criticized rate designs that resulted in funds for the budgets of the localities and charging higher rates to customers outside the limits of the municipality. Other issues identified by Mr. Vassey as justifications for SCC oversight include dealing with regional transmission organizations, transparency in accounting procedures, conflicts of interest, cross-class subsidization, and contracting procedures. Economic development was also identified as an issue of concern.

Connie G. Nyholm, co-owner and managing partner of Virginia International Raceway (VIR), testified that though her business was located in Halifax County, it was within Danville's service territory. Her support for SB 1396 was based on concerns with the high rates charged by the municipal utility. The ability of sites in North Carolina or other locales served by lower-cost electric utilities poses a barrier to the ability of facilities located at or near VIR, including the Global Center for Automotive Performance Simulation, the National Tire Research Center, and the Virginia Motorsports Technology Park, to attract new firms. Donnie Stevens of DVF Foods reported on the discrepancy in the costs of electricity provided to two of his company's facilities. While the facility in APCO's service territory is charged 8.2 cents/kWh, the facility service by Danville's municipal utility is charged 10.3 cents/kWh.

Thomas Dick testified that none of the members of the Municipal Electric Power Association of Virginia supports SB 1396 or SJR 300. Local regulation of municipal utilities, he asserted, has worked well for a long period of time, and the systems under local government control do not view the system as being broken. The residential rates charged by nine of the 16 municipal electric utilities are lower than the rate charged by Dominion. Mr. Dick conceded that Danville has higher industrial rates, but noted that the city council has rejected proposals that it sell or otherwise dispose of the system. Municipal utilities, it was noted, have greater flexibility in dealing with certain types of issues than do utilities regulated by the SCC. There is not necessarily a correlation between the rates charged by a utility and who sets those rates.

Mr. Dick introduced Brian O'Dell, general manager of the Harrisonburg Electric Commission, who noted that most municipal electric utilities purchase power at wholesale rates under contracts that are subject to regulation by the Federal Energy Regulatory Commission. Mr. O'Dell observed that municipal utilities are very reliable and generally have faster service outage restoration than neighboring utilities. The 16 public electric utilities in Virginia, 14 of which are operated by localities, one of which (Virginia Tech) is a state agency, and one of which (Bristol) is an authority, serve 4.5 percent of the Commonwealth's population.

The ratemaking procedures and standards utilized by the municipal utilities include conducting cost of service studies, which is used in allocating costs to various classes of customers. Utility budgets usually involve transfers or payments in lieu of taxes to the local government's general fund, which effectively reduces the locality's property and machinery and tools taxes. The utility's budget is debated and acted upon, after public notice and public hearings, as part of the locality's local budgeting process.

Mr. Dick cited steps taken by Manassas (which modified its franchise territory to allow Dominion to serve its largest industrial customer) and Bedford (which considered special power supply arrangements and rates for industrial customers) as examples of the flexibility and creativity exhibited by municipal electric utilities in addressing concerns of customers. State regulation, he contended, would not change the terms of long-term power contracts and would be contrary to the practice in the vast majority of states.

Most municipal electric utilities generate less than five percent of the electricity sold to retail customers. These utilities resell to customers power that they purchase at wholesale from a variety of sources. Five municipals (Danville, Martinsville, Bedford, Front Royal, and Richlands) are members of American Municipal Power (AMP), a nonprofit wholesale power supplier and services provider for over 100 member municipal electric systems in eight states. Member municipalities purchase shares in generation projects undertaken by AMP.

Three municipals (Radford, Salem, and Virginia Tech) purchase power from APCO. One municipal (Bristol-based BVU Authority) obtains power from the Tennessee Valley Authority. The remaining seven municipals (Blackstone, Culpeper, Elkton, Franklin, Harrisonburg, Manassas, and Wakefield) purchase power from Dominion.

Recognizing that its electric rates have increased to levels above those of surrounding utilities, Danville conducted an assessment of its electric services. In January 2015, the city released a report detailing the reasons for its decision not to sell its electric utility. Though selling its utility would have produced near-term rate reductions for some customers, selling the utility was found not to be financially feasible for two reasons. First, the sales proceeds, net of the costs of retiring outstanding debt, fulfilling contractual commitments, and selling power already purchased, would be adequate to keep the city financially whole and would result in the loss of \$11 million in annual general fund transfers and administrative



fees. Second, it is unlikely that the city could unwind substantial commitments associated with several AMP generation projects. Danville participates in \$510 million of AMP power generation projects. Each project is covered by a power sales contract, or shared generation arrangement, that commits the city to take a specific electric power outlet at a price that covers debt service and operating costs and to pay transmission and congestion charges to deliver the power to its distribution system. Danville's report identified options short of selling its utility to address concerns with its rates, including adjusting service boundaries, opening the system to other power providers, modifying rate structures, and installing generation facilities in its service territory.

Roger C. Wiley, Esq., observed with respect to SB 1396 that a provision of Martinsville's city charter requires voter approval at a referendum prior to disposing of its utility, and he doubted that a charter amendment bill removing this requirement would be well received. In his view, the situation in Danville is not the same as in Martinsville, and SB 1396 opens an inquiry in other areas where such problems do not exist.

With respect to the provisions of SJR 300 opening the question of the General Assembly's power to authorize the SCC to regulate municipal electric utilities, Mr. Wiley disagrees with the conclusions reached in the Attorney General's July 2 opinion. Local governments have always read Sections 2 and 7 of Article IX to say that the SCC had no authority to regulate municipal utilities. The General Assembly has apparently agreed with this conclusion by repeating the exclusory constitutional language in the statutory definition of a corporation in Code § 56-1. He concluded that the Attorney General's opinion glosses over the portion of Article IX, Section 2 that grants the SCC such other powers and duties "not inconsistent with" this Constitution as may be prescribed by law. In his view, giving the SCC statutory authority over municipal utilities would be inconsistent with the exclusion of those entities in Article IX, Section 7. He noted that opinions of the Attorney General do not have the force of law, and observed that the Commonwealth's courts have not issued a decision on this point.

W. Scott Johnson, Esq., appearing on behalf of AMP, stated that the company opposed both SB 1396 and SJR 300. In response to a query by Senator Norment, Mr. Johnson agreed to identify suggestions to address the concerns that gave rise to the measures. He noted that Moody's has favorably cited local regulation of municipal utilities, and he expressed concern that the rating agency would not favor greater regulation.

C. Meade Browder, Jr., Senior Assistant Attorney General, addressed issues relating to the July 2 opinion letter. In the view of the Attorney General, the exclusion in Article IX, Section 7 of municipal utilities from the scope of what constitutes a corporation or company is a limitation on the powers of the SCC, not on the General Assembly. An opinion of the Attorney General issued in 1975 regarding the constitutionality of legislation that would place the Fairfax County Water Authority under the regulation of the SCC reached the same conclusion.

At the close of the meeting, Senator Norment directed staff to prepare a report with a recommendation based on an independent analysis of the complexity of the issue.

Commission on Electric Utility Regulation

Senator Thomas K. Norment, Jr., Chair

Frank Munyan, DLS Senior Attorney

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Virginia Freedom of Information Advisory Council

May 20, 2015

The Virginia Freedom of Information Advisory Council (the Council) held its first meeting of 2015 on May 20, 2015, in Richmond to hear bills referred by the 2015 Session of the General Assembly, to refer bills and other study issues to the Records and Meetings Subcommittees, which were created in 2014 as part of the study of FOIA (House Joint Resolution No. 96), and to present other issues of interest to the Council.

Recap of FOIA and Related Access Bills from 2015 Session

Staff presented a recap of FOIA and related access bills from the 2015 Session and advised the Council that the General Assembly passed a total of 16 bills amending FOIA during the 2015 Session, as follows:

At its last meeting of 2014, the FOIA Council voted favorably to recommend the subject matter of three bills that passed the General Assembly in 2015: HB 1633 and SB 968, identical bills that create an exemption for certain records of certain health care committees and entities to the extent that they reveal information that may be withheld from discovery as privileged communications, and HB 2104, which provides that the record and open meeting exemptions for the VCU Medical Center shall also apply when the records are in the possession of VCU or the discussion of certain matters occurs at a meeting of the Virginia Commonwealth University Board of Visitors.

HB 1776 and its Senate counterpart, SB 1032, in addition to eliminating the Alcoholic Beverage Control (ABC) Board and creating in its place the Virginia Alcoholic Beverage Control Authority (the Authority), add a new FOIA exemption for certain proprietary records, trade secrets, financial records, and cost estimates held by the Authority. The bills amend an existing records exemption in § 2.2-3705.3, add a new records exemption in § 2.2-3705.7, and add a new meetings exemption in § 2.2-3711, all subject to the delayed effective date of July 1, 2018.

Four of the 16 bills add two new meetings exemptions in FOIA as follows: HB 1618 and SB 1126, both amending § 2.2-3711, allow a closed meeting to be held for the discussion of certain exempt records related to Resource Management Plans. HB 1776 and SB 1032, amending §§ 2.2-3705.3, 2.2-3705.7, and 2.2-3711, as summarized above, allow a closed meeting to be held to discuss certain exempt records held by the Authority.

Finally, 12 of the 16 bills amend existing provisions of FOIA. Please see the full 2015 Legislative Update on the Council's website for details.

Bills Referred to Council for Study by 2015 Session of the General Assembly

Staff advised the Council that the 2015 Session referred eight bills to the Council for study. Staff provided an overview of each bill, and the Council then discussed each bill in depth.

HB 1646 (Pogge) provides that in an enforcement action, if the court finds the public body did not provide personal notice of a meeting as provided in subsection E of § 2.2-3707, the court may invalidate any action of the public body taken at such meeting. Mr. Oksman asked if there were standards for how serious a violation must be before an action would be invalidated. Staff replied there were no such limits or thresholds in the bill. Mark Flynn of the Virginia Municipal League (VML) observed that an inadvertent mistake in sending individual notice could lead to invalidation. Staff confirmed for Delegate LeMunyon that the bill would apply only to individual notice sent under subsection E of § 2.2-3707. Mr.



Oksman and Mr. Flynn discussed what effect such invalidation might have on zoning actions and bond issues. The Council by unanimous vote then referred the bill to the Meetings Subcommittee for further study.

Identical bills HB 1722 (Ramadan) and SB 893 (Petersen) eliminate the working papers and correspondence record exemption for the president or other chief executive officer of any public institution of higher education in Virginia. Delegate Ramadan was present and advised the Council that no other heads of state agencies are able to use this exemption and that its use by university presidents has caused negative press coverage and is bad for the reputation of the universities. In response to a question from Delegate LeMunyon, staff confirmed that community colleges are also considered public institutions of higher education. The Council by unanimous vote then referred the bills to the Records Subcommittee for further study.

HB 1776 (Albo) and SB 1032 (McDougle) were referred to the FOIA Council by an enactment clause in these identical bills. The thirteenth enactment requires the Council to include in its study of FOIA (in accordance with House Joint Resolution No. 96 of the Acts of Assembly of 2014) a review of the provisions of § 2.2-3705.7 that create a new exemption for the newly created Virginia Alcoholic Beverage Control Authority for records that contain (i) information of a proprietary nature gathered by or in the possession of the Authority from a private entity pursuant to a promise of confidentiality; (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), of any private entity; (iii) financial records of a private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; (iv) contract cost estimates prepared for the (a) confidential use in awarding contracts for construction or (b) purchase of goods or services; or (v) the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority. The thirteenth enactment directs the Council to make any recommendations it deems necessary and appropriate to this new exemption. Staff noted that the bills were referred because there was some question as to the need for the new records exemption they create. The Council by unanimous vote referred the bills to the Records Subcommittee for further study.

HB 2223 (Morris) provides that in addition to the civil enforcement provisions of FOIA, any officer, employee, or member of a public body who, without legal excuse or justification, deliberately, willfully, and knowingly violates certain FOIA provisions is guilty of a Class 1 misdemeanor. In response to questions from Senator Stuart, staff confirmed that, if enacted, these would be the first criminal penalties for violations of FOIA in Virginia. Staff also confirmed that a public employee could face criminal prosecution over a failure to respond to a FOIA request. Delegate LeMunyon argued that current law is insufficient, as evidenced by a conversation with a constituent regarding a request's taking months, where the only recourse left is going to court. Staff noted that current law provides monetary penalties for knowing and willful violations. Megan Rhyne of the Virginia Coalition for Open Government (VCOG) stated that a cursory review showed about 12 other states with fee penalties and several with criminal misdemeanor or other penalties, such as subjecting a public official to recall. She stated that she agreed with Delegate LeMunyon that citizens currently are at a loss for adequate remedies. Mr. Flynn expressed concern that a criminal penalty might be used or abused to get a warrant from a magistrate and generate newspaper headlines and could be used as a political weapon. Senator Stuart concurred that potential mischief is a big concern. Mr. Oksman asked how, if someone swears to a magistrate for a warrant, the magistrate would know whether the official acted with legal advice, or in bad faith, or otherwise. Mr. Flynn said the magistrate would not know. LaBravia Jenkins of the Petersburg Commonwealth's Attorney's Office and the Virginia Association of Commonwealth's Attorneys

(VACA) stated that VACA opposes criminalizing FOIA. She observed that whereas the criminal justice system is about crime and punishment, FOIA is about how public officials go about their work, and noted that a Class 1 misdemeanor is punishable by up to one year in jail and a \$2,500 fine. Delegate LeMunyon asked for alternatives, if criminalization is not the right answer. Ms. Jenkins stated that good public officials take FOIA seriously and suggested that increased fines would be better than criminalization. Senator Stuart asked if any existing Code provision criminalizes a civil, ministerial act; Ms. Jenkins replied that none does so. The Council then voted unanimously to recommend against HB 2223.

SB 1166 (Hanger) subjects a public service corporation to the public records provisions of FOIA with respect to any project or activity for which it may exercise the power of eminent domain and has filed or prefled for a certificate or other permitting document. Staff noted that this bill does not amend FOIA, but rather concerns other access provisions outside of FOIA. David Ogburn, representing Verizon, stated that the genesis of the bill was an attempt to obtain routing information about a utility pipeline being built. He further stated that while he was not directly involved in the pipeline project, the broader concern is that the bill would extend FOIA to records held by private companies that are “authorized to use eminent domain.” He said that such language would include all public service corporations, not just those that actually use eminent domain. Those private corporations do not want their competitors to know their costs, their economic development prospects, and other information. Mr. Ogburn provided other examples besides the pipeline, such as a data center and building facilities. Ms. Rhyne stated that Mr. Ogburn was correct about the origin of the bill, but noted that a private entity can be subject to FOIA already if it is principally or wholly supported by public funds or performing a government service. She further stated that the power of eminent domain is granted by the legislature, and the legislature can place conditions on it. The Council members present then voted 6-to-1 in favor of referring the bill to the Records Subcommittee for further study, with Senator Stuart voting no.

SB 1402 (Cosgrove) authorizes a public body to convene a closed meeting for consultation with or briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning criminal street gang-related activities. Senator Stuart, Delegate LeMunyon, and staff discussed how under current law the topic of gang-related activities does not appear to be covered under any current exemptions. Staff related that the patron, Senator Cosgrove, had spoken with a City Attorney who indicated the topic was not covered by the current exemption for terrorist activity or other threats to public safety under subdivision A 19 of § 2.2-3711. The Council by unanimous vote then referred the bill to the Meetings Subcommittee for further study.

Subcommittee Reports

Records Subcommittee. Council member and Subcommittee Vice-chair Chris Ashby advised the Council that the Records Subcommittee held its first meeting of the 2015 Interim on May 11, 2015, and was continuing its study of records exemptions as directed by House Joint Resolution No. 96. Mr. Ashby provided the following recap of the Subcommittee’s work to date:

2014 recap:

- Met four times in 2014 to begin studying records exemptions pursuant to House Joint Resolution No. 96 (2014).
- Addressed exemptions of general application (§§ 2.2-3705.1 and 2.2-3705) and exemptions to records of specific public bodies (§ 2.2-3705.7).



- Specific recommendations to be included in omnibus legislation at the end of the three-year study.

2015 recap: First meeting, May 11, 2015:

Old Business:

- Carried over for further study two exemptions:
 - (1) Advice of legal counsel (subdivision 2 of § 2.2-3705.1); and
 - (2) Working papers and correspondence of certain officials (subdivision 2 of § 2.2-3705.7).
- Looked at an exemption for certain records maintained by the Department of the Treasury or participants in the Local Government Investment Pool (subdivision 27 of § 2.2-3705.7). Asked that a legislative proposal be drafted to eliminate this specific exemption and instead expand a more general exemption for financial account and routing numbers to cover the data that needs protection (subdivision 13 of § 2.2-3705.1). To be considered at next meeting.

New Business:

- The Subcommittee began looking at exemptions for proprietary records and trade secrets (§ 2.2-3705.6).
- Suggested consolidation of the many specific individual exemptions into one or more broader exemptions in this area. The Subcommittee directed that staff and interested parties form a work group on this issue to develop draft language for the Subcommittee's consideration. The work group has not yet set its first meeting date.

The next Subcommittee meeting has not yet been scheduled.

Meetings Subcommittee. Council member and Subcommittee Chair Kathleen Dooley advised the Council that the Meetings Subcommittee held its first meeting of the 2015 Interim on May 12, 2015, to continue its study of meetings exemptions as directed by House Joint Resolution No. 96 (2014). Ms. Dooley indicated that the Meetings Subcommittee had reviewed draft legislation that made several technical corrections to the meeting exemptions found in § 2.2-3711. She explained that there had been several discussions of the personnel meeting exemption, but that resolution had not been reached on that issue. The next meeting date for the Subcommittee is set for June 17, 2015.

Public Comment

The Council offered the opportunity for public comment. No public comment was offered.

Expiring FOIA Council Membership Terms

Staff advised the Council that member George Whitehurst's second full four-year term ends July 1, 2015, and he is ineligible for reappointment. In addition, Stephanie Hamlett's first four-year term ends July 1, 2015, but she is eligible for reappointment. Kathleen Dooley's first four-year term ends July 1, 2015, and Ms. Dooley was reappointed by Senate Rules to a second four-year term ending July 1, 2019.

Other Business

Databases and Recent Council Advisory Opinion

Staff discussed its recent advisory opinion (AO-03-15, issued on April 23, 2015), which addresses the question of whether the Office of the Executive Secretary of the Supreme Court of Virginia (OES) improperly withheld the electronic compilation of circuit court case status records in the OES case

management system. OES has released those records in the past, but declined repeated requests recently, citing a change in policy last year. After lengthy analysis of pertinent provisions of law, AO-03-15 concludes that it appears that OES by statute operates and maintains a case management system, that the operation and maintenance of the system is the transaction of OES public business, and that therefore OES case management records are public records subject to FOIA. (Note that such records may still be subject to other exemptions depending on their contents, such as records concerning access control features of such a system (which may be exempt under subdivision 3 of § 2.2-3705.2) or the underlying software itself (which may be exempt under subdivision 6 or 7 of § 2.2-3705.1).) By operation of law, the respective clerks also remain custodians of those records, and they bear responsibility for maintaining the integrity of those records. To the extent that OES owns or possesses such data, it is also a custodian of such records and likewise responsible to respond to a request for it under FOIA.

Further, staff informed the Council that access to public records contained in databases owned and maintained by many governmental entities has become the subject of numerous inquiries to the Council. Staff provided several database examples and indicated how, under FOIA or other law, such databases are to be treated for public access purposes.

1) VITA maintains IT architecture and equipment for executive branch agencies. The Library of Virginia archives records from all over the Commonwealth. Both are addressed in subsection J of § 2.2-3704 regarding transferring possession of records:

In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

2) DLAS maintains legislative records for the General Assembly, Clerks of the House and Senate, DLS, and other legislative agencies. Provisions for documents not to be revealed by DLAS are contained in subdivision 5 of § 30-34.14:

Every document or file maintained or stored on equipment of the Division shall be considered the property of the person for whom the document or file is maintained or stored. Neither the Director nor any employee of the Division shall reveal any of this property to any person outside of the Division, except with the consent of the owner of the property.

3) OES maintains the case management system for circuit courts. Council Advisory Opinion AO-03-15, with which OES disagrees, addresses the release of the full database. Some jurisdictions allow individual records to be accessed online, some allow their portion of full database to be released, and others do not participate in the OES case management system.



4) State Compensation Board (SCB): Local Inmate Data System. A citizen's request for the database for a particular jail was denied due to criminal history and the FOIA exemption for "[a]ll records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment." (§ 19.2-389 and subdivision A 2 d of § 2.2-3706.) However, individual records and statistical records are available online (vinelink.com and SCB website, respectively).

5) Concealed handgun permits. Database access has changed over time through legislation (open, then full State Police database closed, but individual circuit court records open, now all closed except statistical and aggregate info). According to subsection D of § 18.2-308.02:

The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

FOIA Roadshows

Staff advised the Council that the annual statewide FOIA Workshops, while well attended, pose considerable administrative burdens in their planning and execution. While staff views FOIA training as its most critical mission, it is considering changing the way FOIA training is conducted statewide. In fulfilling its statutory mission to conduct educational programs about FOIA, staff proposed that it provide training upon request to interested groups, including the staff of state and local agencies, members of local governing bodies, media organizations, citizen organizations, and any other group that wishes to learn more about FOIA. Council staff will travel to the location of the group requesting training. The training can be tailored to meet the needs of the particular group, can range in length from 45 minutes to several hours, and can present a general overview of FOIA or focus specifically on particular exemptions or portions of FOIA frequently used by that group or organization. Organizations requesting training are strongly encouraged, but not required, to consolidate training by including other like organizations within a single jurisdiction or from neighboring jurisdictions wherever possible. This training is free of charge and is available generally from March through November. Because the FOIA Council is a legislative agency, training is generally not available while the General Assembly is in session. The Council deferred to staff the authority to fashion any alternative to the statewide FOIA workshops it deemed advisable.

Next Council Meeting

The next Council meeting is set for Thursday, July 22, 2015, at 1:30 p.m. in House Room D of the General Assembly Building in Richmond.

Virginia Freedom of Information Advisory Council

Senator Richard H. Stuart, Chair

Maria J.K. Everett, Executive Director and Senior Attorney

Alan Gernhardt, Staff Attorney

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Health Insurance Reform Commission

July 15, 2015

The powers and duties of the Health Insurance Reform Commission (the Commission) include monitoring the implementation of the federal Patient Protection and Affordable Care Act (the Act); assessing proposed mandated health insurance benefits and providers; and developing recommendations to increase access to health insurance coverage that are reasonable, and encourage a robust market for health insurance products in the Commonwealth. The Commission, established in 2013, was charged with continuing to perform many of the functions of the former Special Advisory Commission on Mandated Health Insurance Benefits (SAC). For the past two years, staffing for the Commission, as for the SAC, was provided by the State Corporation Commission's Bureau of Insurance (BOI) and the Joint Legislative Audit and Review Commission (JLARC). With the enactment of House Bill 2026, effective July 1, 2015, the Division of Legislative Services began staffing the Commission.

At its first meeting of the 2015-2016 interim, the Commission welcomed two new members, Senator Rosalyn Dance and Delegate Eileen Filler-Corn; reelected Delegate Kathy Byron as chair; and elected Senator Frank Wagner as vice-chair.

Supreme Court Decision in *King v. Burwell*

The Supreme Court's highly anticipated decision in *King v. Burwell* was issued on June 25, 2015. The decision of the six-member majority upheld the Internal Revenue Service's interpretation of a provision of the Act in a manner that extended tax-credit subsidies to coverage purchased through the federal exchange. In Chief Justice Roberts's majority opinion upholding the status quo, the language in § 1401 of the Act stating that subsidies were available to a taxpayer enrolled for coverage "through an Exchange established by the State" was found to be ambiguous when read in the context of other provisions of the Act. The majority opinion held that because it is implausible that Congress meant the Act to operate in a manner that would destabilize the health insurance market in any state with a federal exchange, it stands to reason that Congress intended the subsidies to be available in any state.

House Bill 2026 and the Process for Reviewing Proposed Mandated Benefits

The 2015 Session enacted House Bill 2026, which was patroned by Delegate Byron. In addition to revising the Commission's powers and duties and tasking the Division of Legislative Services with staffing the Commission, the bill rewrote § 30-343, the Code section that sets out how the Commission is to review legislative measures proposing to create a mandated health insurance benefit or provider. As enacted, § 30-343 establishes a two-step review process. Under the first step, the Commission would request the BOI to prepare an analysis of the extent to which the proposed mandate is currently available under qualified health plans and advise the Commission as to whether, on the basis of that analysis, the Exchange would likely determine, in accordance with applicable federal rules, that the proposed mandate exceeds the scope of the essential health benefits.

On the basis of the results of the step one assessment, the Commission may direct BOI and JLARC to jointly assess the social and financial impact and the medical efficacy of the proposed mandate. The step two assessment shall include an estimate of the effects of enactment of the proposed mandate on the costs of health coverage in the Commonwealth, including any estimated additional costs that the Commonwealth may be responsible for pursuant to § 1311(d)(3)(B) of the Act.

The rationale for the two-step review process is to give the Commission the option, on the basis of the results of the BOI's initial assessment, to decline to request the BOI and JLARC to conduct the second



step when it appears that adopting the proposed mandated benefit could make the Commonwealth liable for the incremental additional cost attributed to the new mandated benefit. Section 1311(d)(3)(B) of the Act requires a state to make payments to an individual enrolled in a qualified health plan offered in the state, or on behalf of such an individual directly to the qualified health plan in which such individual is enrolled, to defray the cost of any benefits that are in addition to the essential health benefits specified under § 1302 of the Act.

While mandated benefits established under state laws effective as of December 31, 2011, can be included in state-selected benchmark plans, federal regulators have stated that state laws passed after that date may not be covered as essential health benefits. Staff is not aware of how this provision would be implemented if a state were to be found to have added new mandated benefits. However, the Commission was cautioned that the text of the Act poses the potential risk that the Commonwealth could be liable for payments based on the cost of new mandated benefits.

The Commission asked the BOI to ask the appropriate federal office whether any actions by the 2015 Session of the General Assembly, including the expansion of the age group eligible for coverage for applied behavioral analysis and other autism treatment methods, would be construed as a new mandate that might result in liability under § 1311(d) of the Act.

The Commission adopted a proposed procedure for implementing the two-step process outlined in HB 2026. Under the procedure, the Commission will request BOI to conduct a step one assessment of appropriate proposals. A step one assessment will address (i) whether the Exchange would likely determine that the proposed mandate exceeds the scope of the essential health benefit as defined according to the Act and (ii) the extent to which the coverage in the proposed mandate is already available under qualified health plans offered through the Exchange. Using the step one assessment, the Commission will determine whether further assessment of the proposed mandate is warranted.

If it determines further assessment is warranted, the Commission will request JLARC and the BOI to conduct a step two assessment, which will consist of two separate but coordinated reports. JLARC's assessment will address background on proposed coverage and medical condition, medical efficacy and effectiveness of proposed coverage, current availability and utilization of treatment, current financial impact on individuals without coverage for treatment, and the proposed mandate's consistency with the purpose of health insurance and impact on public health. The BOI's assessment will address the expected impact on utilization of services and providers, the expected impact on premium costs and administrative cost of insurers, the expected additional cost to the state as required by § 1311(d)(3)(B) of the Act, and the expected impact on the total cost of health care in the Commonwealth generally. After reviewing the findings from the JLARC and BOI reports, the Commission will recommend its support of or opposition to the proposed mandate. Its recommendation may also address whether the proposed mandate should be provided under plans offered through a health benefit exchange or outside a health benefit exchange.

The Commission then considered several options regarding a policy for the appropriate point in the review process at which the patron of the proposed mandate and interested parties would be invited to comment on it. Options included receiving testimony prior to requesting the BOI to prepare the step one assessment; receiving testimony prior to requesting JLARC and the BOI to prepare the step two assessment; receiving testimony after receiving the step two assessment but prior to making a recommendation; and not receiving input before making its recommendation but assuming opportunity for input would occur at a meeting of the Commerce and Labor Committee in the subsequent session when legislation to establish the mandate is reintroduced. The Commission did not endorse any of these

options, and intends to address the issue of scheduling testimony on proposed mandates ad hoc on the basis of the circumstances relevant to the proposal.

Bills Referred to the Commission

The 2015 Session of the General Assembly generated requests for Commission review of the following five bills:

1. House Bill 1339 (Patron: Delegate Ware):

The bill would have required health carriers that offer health benefit plans through an exchange to provide to the operator of the exchange's website certain information about those plans, to be posted on the exchange's website. Copies of the information provided to the website operator, together with evidence that the information was provided to the website operator, are required to be submitted to the SCC. The bill would direct the SCC to make reasonable efforts to ensure that the information provided to the website operator is made available to persons who access the website.

The bill was tabled in committee at the request of the patron. The SCC's impact notes that the SCC has no authority over the placement of information on the federal exchange website. Most of the information required by the bill to be provided is available for plans offered on the federal exchange. The disclosure of information addressed by the bill is not a mandate for coverage of a benefit, and therefore the procedure under § 30-343 is inapplicable.

Staff reported that Delegate Kilgore had forwarded a request from the measure's advocates that the BOI be asked to convene a work group to review the bill. It was reported that interested parties have been meeting independently to discuss concerns with the bill.

The Commission adopted Senator Watkins's suggestion that interested parties be invited to provide the Commission with a report at a future meeting on the status of their progress.

2. House Bill 2156 (Patron: Delegate Krupicka):

The bill would have required coverage for hearing aids and related professional services in individual and group health insurance policies when prescribed or provided by a licensed audiologist. The issue of coverage for hearing aids and related services for children was most recently studied by the SAC in 2008, and the study resulted in a recommendation against adoption of the mandate by a vote of 9-0-1. Previous studies of proposals to mandate coverage for the cost of hearing aids conducted in 2000, 2001, and 2003 also resulted in recommendations against enactment. The fiscal impact statement for HB 2156 notes that Anthem notified the Department of Human Resource Management that the bill is expected to have a state fiscal impact of \$3.49 million.

When the bill was heard in House Commerce and Labor Committee on January 22, a line amendment was adopted that added "or licensed physician or hearing aid specialist" after "certified audiologist" on line 33. Testimony during the Committee meeting indicated that this benefit is not currently included as an essential health benefit.

The Commission adopted Senator Watkins's suggestion that the BOI be asked to conduct a step one assessment of the measure.

3. Senate Bill 1277 (Patron: Senator Barker):

The bill would have required all health insurance policies, individual or group accident and sickness subscription contracts, and health care plans offered by a health maintenance organization issued or



renewed on or after July 1, 2015, to include coverage for any prescribed drug, device, or product approved by the U.S. Food and Drug Administration (FDA) for use as a contraceptive. No provision of the bill would require coverage for such prescription drugs, devices, or products in a policy that does not otherwise provide coverage for prescription drugs. The bill also provides that nothing in its provisions shall be construed to exclude coverage for contraceptive supplies as prescribed by a provider, acting within the practitioner's scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee. The bill was passed by in Senate Commerce and Labor on a vote of 11-3.

Currently, Code § 38.2-3407.5:1 provides that coverage for prescription contraceptive drug or device is a "mandated offer," under which insurers are required to offer and make the coverage available as an option.

Under the Act, coverage for contraceptives appears to be both an essential health benefit and a preventive service. Under § 1302 of the Act, preventive and wellness services and prescription drugs are 10 categories of Essential Health Benefits. Self-insured group health plans, large group health plans, and grandfathered health plans are not required to offer EHBs.

Section 2713 of the Public Health Services Act, as added by the Act, requires private health plans (except for grandfathered plans) to provide coverage for four categories of preventive services, without cost-sharing on patients receiving these services. One of the categories is preventive services for women. The Act authorized the Health Resources and Services Administration to make additional coverage requirements for women. Pursuant to this authorization, coverage is required for all FDA-approved contraceptives and related services.

Code § 38.2-3442 has required since 2011 that health carriers provide coverage, without cost-sharing, with respect to women, for evidence-informed preventive care and screenings recommended in comprehensive guidelines supported by the Health Resources and Services Administration. This section does not apply to grandfathered plans.

The interplay between these sections of the Act and the Code raises questions regarding the bill's effect. As drafted, it appears to extend the requirement that coverage for prescription contraceptives to grandfathered plans be provided but without the limitation on cost-sharing. It is also unclear whether the bill would require coverage for prescription contraceptives without the Act's exceptions for health plans sponsored by certain exempt religious employers or nonprofit religious organizations that certify they have religious objections to contraceptive coverage. Further, advocates for the bill were reported as stating that the purpose of the bill was limited to ensuring that all FDA-approved birth control methods (rather than one contraceptive in each category) were covered under Virginia's Code.

The Commission adopted Senator Watkins's suggestion that the BOI be asked to conduct a step one assessment of the measure.

4. Senate Bill 760 (Patron: Senator Edwards):

The bill as introduced would have required insurers issuing Medicare supplement policies in the Commonwealth to make certain Medicare Supplement Plans available to any Medicare enrollee under 65 years of age who is eligible for Medicare due to disability or end-stage renal disease. It also would have provided that a Medicare supplement policy issued to such an individual may not exclude benefits based on a preexisting condition if the individual has a continuous period of creditable coverage of at least six months as of the date of application for coverage.

The Senate Committee on Commerce and Labor adopted an Amendment in the Nature of a Substitute to the bill that (i) eliminated application to individuals eligible for Medicare due to end-stage renal disease; (ii) amended the language regarding an insurer's obligation to make plans available on a guaranteed issue basis; and (iii) removed certain limits in the introduced version on a carrier's ability to develop premium rates for eligible individuals. The substitute version was reported to the Senate floor, where it was recommitted to the Commerce and Labor Committee after the crossover deadline for committee action.

Conditioning the ability of insurers to offer Medicare Supplement policies to individuals age 65 or older upon their also offering such policies to Medicare-eligible persons under age 65 is not a mandate for coverage of a benefit, and therefore the procedure under § 30-343 is inapplicable.

The Commission adopted Senator Watkins's suggestion that the BOI be requested to ask those insurers offering Medicare Supplement policies in Virginia to persons age 65 or older what the effect would be on their willingness to continue offering such policies and being involved in the market if legislation were enacted that required them to also offer Medicare Supplement policies to eligible persons under age 65.

5. Senate Bill 1394 (Patron: Senator Dance):

The bill would have imposed a limit on coinsurance or copayments of \$100 per month for up to a 30-day supply of a single specialty tier drug, regardless of whether a deductible has been satisfied. The bill also would have prohibited a health benefit plan that provides coverage for prescription drugs from placing all drugs in a given class of drugs on the highest cost tier and would have created a process for exceptions to the formulary. It appears that such a process for exceptions currently exists under Code § 38.2-3407.9:01.

The bill further provides that its requirements are waived if it is determined that they would result in additional cost to the state pursuant to the Act. It is not clear how this provision would be implemented if the Commonwealth should be directed under § 1311(d) of the Act to make payments to policyholders or insureds after the bill has taken effect.

The Joint Commission on Health Care (JCHC) conducted a two-year study (2012-2013) of the impact of cost-sharing, coinsurance, and specialty tier pricing on access to prescription medications for chronic health disorders, per HJR 579 (2011), which was patroned by Delegate O'Bannon.

One issue pertaining to specialty tier drug pricing that may not be duplicative of the efforts of the JCHC relates to § 1557 of the Act. This section prohibits discrimination on the basis of health and disability. In February 2015 the federal Centers for Medicare and Medicaid Services (CMS) issued a rule for 2016 that prohibits plans placing "most or all drugs that treat a specific condition on the highest cost tiers" and charging more for single-tablet regimens than for treatments that require patients to take multiple pills. CMS commented on 45 CFR 156.125 that "[h]aving a specialty tier is not on its face discriminatory; however, placing most or all drugs for a certain condition on a high cost tier without regard to the actual cost the issuer pays for the drug may often be discriminatory in application when looking at the totality of the circumstances, and therefore prohibited. When CMS or the State requests a justification for such a practice, issuers should be able to identify an appropriate non-discriminatory reason that supports their benefit design, including their formulary design."

Limiting the cost-sharing liability of covered persons for specialty tier drugs is not a mandate for coverage of a benefit, and therefore the procedure under § 30-343 is inapplicable.



The Commission agreed to receive additional information at a hearing on this issue at a future meeting, including a report on the work of the JCHC on the issue of specialty tier drugs. To avoid duplicating the work of the JCHC, the Commission will ask that interested parties focus on the issue of the applicability of the antidiscrimination provisions of § 1557 of the Act.

House Joint Resolution 630

In addition to requests for review of the five bills, the 2015 Session of the General Assembly directed the Commission, pursuant to HJR 630, to study mandating health insurance coverage for abuse deterrent formulations for opioid medications. In conducting its study, the Commission is directed to examine the issues of access by citizens of the Commonwealth to effective pain management medications and the need to require the adoption of abuse deterrent formulation technologies for pain medicines in order to assist in the Commonwealth's continuing efforts to eliminate substance and prescription drug abuse. The Commission is required to complete meetings by November 30, 2015, and to submit an executive summary of its findings and recommendations by the first day of the 2016 Regular Session.

According to the BOI, there is no specific requirement for this coverage for this type of medication, and imposing such a requirement could result in a cost to the Commonwealth. The Governor's Task Force on prescription Drug and Heroin Abuse has not examined this issue.

Abuse-deterrent opioids are opioid drugs that are formulated in such a way that deters misuse and abuse, including making it difficult to snort or inject the drug for a more intense high. Commander John J. Burke, president of Pharmaceutical Diversion Education Inc., recounted the success of the abuse deterrent formulation (ADF) of OxyContin. For over a decade beginning in the late 1990s, OxyContin was abused significantly. Abusers were able to easily crush the pills and then snort, chew, inject, or smoke the resultant powder. In August 2010, Purdue Pharma introduced a reformulated version of OxyContin that made pills much less susceptible to crushing and dissolution. As a result, the street price of OxyContin plummeted and street demand fell significantly. Data from Rx Patrol indicates that the demand for OxyContin fell almost 50 percent after the reformulation. Shortly after the introduction of ADF OxyContin, abuse of Oxycodone IR increased and cheap heroin began to dominate the illicit opioid market. Mr. Burke noted that while ADF OxyContin can still be abused, the abuser must swallow multiple pills to achieve a high. Hardened addicts prefer the quick jolt achieved by injecting or snorting the drug, which cannot be accomplished with the ADF version.

Dr. Wayne Winegarden, Senior Fellow for Business and Economics at Pacific Research Institute and editor of the EconoSTATS project of George Mason University, presented the Commission with a cost-benefit assessment of abuse deterrent opioids. Over 100 million Americans, he reported, are afflicted by some level of chronic pain, and for many of them opioids are an important therapy. The cost of chronic pain, measured in additional health care costs and lost productivity, was estimated to range between \$560 billion and \$635 billion.

Dr. Winegarden described the costs of opioid abuse as significant. More than 16,000 people die annually from overdoses involving pain medication, and opioid-related overdose deaths outnumber overdose deaths involving all other illicit drugs combined.

A study cited by Dr. Winegarden reported that reformulated ER oxycodone resulted in savings in medical costs, workplace costs, criminal justice costs, and caregiver costs that totaled \$1.04 billion in 2014. He estimated that the total annual benefits per patient from ADF opioids at \$4,645 for the commercially insured population and \$4,568 for the Medicaid/uninsured population. Quantifying the net benefit requires accounting for the increased costs of ADF opioids, which Dr. Winegarden estimated at

between \$612 and \$2,811 per year. Subtracting the estimated additional cost from the additional benefits provides a range in the net benefit from prescribing ADFs of \$1,757 per patient to \$4,033 per patient.

Jerry Moore of TEVA Pharmaceuticals added that several states have enacted legislation mandating coverage for ADF opioids on insurers' drug formularies.

Doug Gray of the Virginia Association of Health Plans cautioned that the General Assembly is being asked to mandate a drug formulation, which has not been done previously. He advised that health plans in Virginia evaluate the prescription drugs on their formularies on a regular basis through the use of a Pharmacy & Therapeutics Committee. Mandating the addition of new on-patent drugs to a formulary, he noted, could be very lucrative for the drug's manufacturer. He also suggested that it would be more accurate to refer to abuse deterrent formulations as "tamper deterrent," as they may still be abused orally. Most deaths from opioids involve their oral ingestion, often in combination with other substances.

Ben Twilley, Senior Manager for State Government Affairs at Express Scripts, shared concerns about being required to cover ADF opioids and place them on a formulary's lowest-cost tier. While some ADF opioids cost \$455, extended release formulations cost \$300 less. He noted that Express Scripts and other pharmacy benefit managers currently can negotiate with drug manufacturers for price reductions, and he urged the Commission to allow the marketplace to continue to operate. If appropriate, they will be added to an insurer's formulary.

Mr. Gray closed by noting that "next generation" ADF opioids have not yet been approved by the FDA. ADF opioids are still subject to misuse and are addictive. While there are no limits on what drug manufacturers can charge for these drugs, the Act sets limits on member cost-sharing obligations. At the close of the testimony, Delegate Byron announced that after digesting the information provided by the day's speakers, the Commission may receive more material on the topic at the Commission's next meeting.

Selection of Benchmark Plan

Althelia Battle, Deputy Commissioner for Life and Health Insurance at the BOI, provided the Commission with an update on the selection process for Virginia's benchmark plan. CMS allowed states to select an essential health benefits benchmark plan for use in plan years 2014-2016 from one of the three largest small group plans, one of three largest state employee health plans, one of the three largest federal employee health plan options, or the largest non-Medicaid health maintenance organization. Virginia selected the Anthem small group PPO with supplemental coverage for pediatric dental and pediatric vision.

CCIIO announced a June 1, 2015, deadline for states to select an EHB benchmark for small employer and individual coverage available in 2017. States were allowed to select from among 10 plans available to state residents. If a state does not choose a benchmark plan, the default plan is the small employer plan with the largest enrollment.

By letter dated May 27, 2015, Governor McAuliffe advised CMS of the selection of the Anthem Direct Access PPO plan that will serve as the reference plan for Virginia. Coverage for pediatric dental benefits is required to be supplemented and the FAMIS Smiles for Children program was selected to be the supplemental plan.



Conclusion

At the close of the meeting, Delegate Byron thanked Ann Colley, on her last day before retiring from the BOI, for the able assistance she has provided to the Commission and the SAC over many years. Delegate Byron announced that she would be polling for a September meeting of the Commission and asked that she be advised if anyone wishes to add an item to the agenda of the next meeting.

Health Insurance Reform Commission

Delegate Kathy J. Byron, Chair

Frank Munyan, DLS Senior Attorney

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Virginia Housing Commission

April 14, 2015

The Virginia Housing Commission (the Commission) met on April 14, 2015, in Richmond with Delegate Daniel W. Marshall, III, chair, presiding.

Housing and Economic Forecast

Sonya Waddell, Regional Economist, The Federal Reserve Bank of Richmond

Ms. Waddell reported that the Virginia housing market has been growing slower than the overall U.S. market; existing home sales are above 1990s levels and new home sales are not. Housing starts have fallen at a rate similar to U.S. averages, however the U.S. is trending up while Virginia is not; and building permits have declined since 2014.

When asked how much of the building permit downturn was weather related, Ms. Waddell responded that these are seasonally adjusted figures but that does not mean they are not weather related; weather has played a negative role.

Ms. Waddell noted that construction employment was severely depleted in the recession and has not rebounded. It is increasing slowly but is nowhere near pre-recession numbers. The House Price Index shows a continued increase in house prices. There is stronger house price growth in Richmond and Winchester, but there is slow growth in most MSAs.

Ms. Waddell stated that recently distressed prices are falling more rapidly, such that now total price growth is in line with distressed sales. The foreclosure inventory rate is still in decline. There is a high level of inventory of foreclosures. In the fourth quarter of 2014, 0.9% of mortgages in Virginia were in foreclosure, which correlates to 12,000 loans in the foreclosure process. Virginia's foreclosure inventory rate is still lower than the national average, as is the foreclosure starts rate.

Regarding the distribution of types of loans, the share of FHA and VA loans are becoming larger, as in the pre-recession market. Virginia is not yet at the new normal. In the fourth quarter of 2012, 1.8% of mortgage inventory was 90 days delinquent. Cure rates for 90-day delinquency are high.

Ms. Waddell reported that in February, Virginia gained over 11,000 jobs. While employment is increasing, Virginia is lagging behind the national average in employment growth. One drag on the Virginia economy is the reliance on the government contracting sector.

The Virginia unemployment rate has gone down and is steadily below the national average. While a number of foreclosures were generally seen in the Northern Virginia area, they still have low rates of unemployment.

The Virginia housing market is still improving, but slowly. House prices are rising, though the increase is tapering off. The inventory of distressed property is declining. New home sales and construction are not coming back in Virginia. Virginia labor markets are struggling, particularly in the important professional and business services sector. This is at least in part due to the role of the federal government in Virginia's economy. The labor market affects the Virginia housing market.

Mike Toalson, representing the Homebuilders Association of Virginia, reported that their members' business was booming through 2007 and 2008. Starts peaked at 55,000 and fell to between 9,000 and 11,000 in 2009 and stayed there through 2012. 2013 was a better year than 2014. 2015 continues to be spotty, but their members have seen some improvement and hope to continue moving toward previous levels. Starts are now 45% of average market, which are at 2002 levels. The nation is at about 53% of average market. His organization is optimistic for the remainder of this year.

Brian Gordon, representing the Virginia Apartment and Management Association, stated that his association members are starting to see multi-family activity reach its apex. They are seeing rents start to drop and vacancies occur. The local economy is slowing and the sequestration is impacting his members. The supply of multi-family units is starting to outpace their demand. The Northern Virginia market is seeing this and the association expects to start seeing it across the state.

Land Banks: Local Perspective

J. Lee Vogler, City Council Member, Danville

Mr. Volger explained how blight has occurred in Danville and what can be done to help the city resolve the consequences of blighted neighborhoods.

Danville was once a bustling city known for its textile mills and robust tobacco markets. But globalization, demographic changes, and, ultimately, a national recession caused Danville to substantially shrink in population between 1990 and 2010. In the past five years, that population decline has stabilized and even seen some encouraging signs of future growth. Millennials and empty nesters are flocking to more urban environments with walkability factors. Danville has seen this in its downtown River District. In the past few years, the population in that district has gone from 200 people to over 2,000 and growing. With that being said, they are still faced with a critical problem: blight.

Danville has far more homes than people ready to move into them and in addition has a rapidly aging housing stock. Over 50% of the homes in Danville are 50 years old or older. Many of these are old mill houses that are not suited for modern use. Some homes, however, are still desirable to those who are willing to put the time and effort into bringing them back to life. Frequently, though, potential homebuyers are discouraged by the amount of red tape, tax liens, and other hurdles that stand between them and restoration.

In the past few years, Danville has taken an aggressive approach to combatting this blight issue plaguing the city. More than \$5 million has been spent on Danville's blight eradication program since 2012. Of its 2,000 blighted structures, the city has only been able to demolish roughly 100 per year. Because the city



cannot demolish its way out of this problem, they've embarked on a number of other solutions, among them hiring a full-time attorney to move demolition and maintenance code cases through the multiple steps that must be taken in order for a case to be approved by a court. A rental inspection program was set up—and has already been expanded once—to force landlords to bring deteriorating buildings up to code. A program also was set up to help landlords get low-interest loans to make the repairs.

More recently, a receivership program was set up, allowing the Danville Redevelopment and Housing Authority to purchase derelict houses to either demolish or repair, as well as any adjacent vacant lots. These were the first steps towards a land banking program. With creation of a land bank authority in Danville, the city can help achieve a range of smart growth goals—such as facilitating infill development, spurring economic investment, and preserving open space.

Where the state can come in and help Danville and other communities in this regard is by creating a framework that gives localities the flexibility to craft a solution that is best suited for them, because what works for parts of Hampton Roads may not be applicable in Northern Virginia and what is best for Northern Virginia may not be feasible in Danville. By creating legislation for land banks and land trusts in Virginia, the General Assembly would be giving localities the tools they need to combat blight and ultimately turn some of these properties back over to the private sector for beneficial use.

Mr. Volger: “One of the things I've envisioned for the city I represent is the creation of an online auction system that allows for some of these blighted properties to be up for sale to the public to the highest bidder, predicated upon conditions being met, such as having the property up to code within a certain amount of time and actively seeking a tenant, as a way to prevent these properties from being bought and held, which is what led many of them to this condition in the first place. Programs such as this would save taxpayer money, while helping to eliminate blight at the same time.

“In closing, I'd ask that you seriously consider joining the 13 other states that have passed some form of Land banking legislation that allows the flexibility to overcome many of the financial and legal barriers that might discourage responsible, private investment in neglected properties, such as clouded titles, years of back taxes, and costly repairs. It would be a great benefit to the City of Danville and, I imagine, many localities across our Commonwealth.”

Daniel Cohen, Senior Project Manager, Department of Economic and Community Development, City of Richmond

Mr. Cohen reported that 15% of Richmond's housing stock is tax delinquent and of that, 67% is vacant. More than 25% can be sold directly by the city, and 11% can be sold to nonprofit community development corporations.

There are 2,600 existing homeowners earning less than 30% AMI (\$21,900 per year for a family of four) paying greater than 50% of their income on housing. Richmond is comprised of 55% renters and 45% owners, with an increase of 5% during the last five years (compared to the previous ratio of 50:50); median income for owners is \$62,414, and HUD's median income for a family-of-four-HUD is \$72,900.

The median home sales price in late 2014 was \$215,000. The average home sales price in 2014 was \$252,000. Seventeen percent of single-family dwellings are renter occupied, and 31% of housing stock is more than 70 years old. The cost of rehabilitation for an old building is very high.

The cost to acquire and rehabilitate existing homes ranges from \$200,000 to \$280,000. New infill construction ranges from \$180,000 to \$235,000, while market prices range from \$130,000 to \$180,000. The result is current subsidies for affordable homeownership run between \$50,000 and \$100,000.

Mr. Cohen said that in order to qualify for appointment of a special commissioner under § 58.1-3970.1 of the Code of Virginia, the percentage of taxes and liens or percentage of taxes alone must exceed 20 percent and 10 percent, respectively, or the assessed value of the parcel or parcels must be \$100,000 or less. Property is not an occupied dwelling. The locality enters into an agreement for sale of the parcel to a nonprofit organization to renovate or construct a single-family dwelling on a parcel for sale to a person or persons to reside in the dwelling whose income is below the area median income.

Mr. Cohen reported that efforts are underway to use available tools to address these problems. The mayor's Anti-Poverty Commission is engaging in talks with Richmond Metropolitan Habitat for Humanity regarding the expansion of the Community Land Trust. The city is also developing a mechanism (LLC) to transfer vacant city-owned houses to interested CDCs. Partnership for Housing Affordability is developing a community land trust to support long-term affordable housing.

Mr. Cohen explained that community land trusts are designed to ensure long-term housing affordability. The trust acquires land and maintains ownership of it permanently. Prospective homeowners enter into a long-term, renewable lease instead of a traditional sale.

When the homeowner sells, the family earns only a portion of the increased property value. The remainder is kept by the trust, preserving affordability for the future. This provides low- and moderate-income people with the opportunity to build equity through homeownership and ensures residents are not displaced due to speculation and gentrification.

Foreclosure rates for land trusts have been as much as 90% less than conventional home mortgages. Typically at least one-third of a land trust's board is composed of community residents, allowing for local control of local assets. Many land trusts are involved in a range of initiatives including commercial development projects and community greening efforts.

Land Banks: National Perspective

Kim Graziani, Vice President and Director of National Technical Assistance for the Center for Community Progress

Ms. Graziani began by defining a land bank, which is a public authority or a nonprofit that focuses on the conversion of vacant, abandoned, tax-delinquent and foreclosed properties into productive use.

Ms. Graziani noted that the difference between land banks and redevelopment authorities include that redevelopment authorities have a redevelopment mission, eminent domain powers, and strict disposition requirements.

The difference between land banks and community land trusts is that land banks have an affordability mission and a legal structure and do not hold onto ownership.

Common community triggers that lead to development of a land bank include: Weak economic conditions and properties with little market value, population loss and high rates of vacancy and abandonment, inequitable/inefficient tax foreclosure systems, restrictive public property disposition requirements, and sudden "shocks."

The core power of a land bank is to acquire, maintain, and transfer these problem properties to responsible ownership, all according to priorities and land use goals of the jurisdictions. Land banks also need to work with preventative systems.

Creation of a land bank would require state enabling legislation.



Common funding sources include land sales revenue, Federal (HOME, CDBG), State and Local (National Mortgage Settlement, HHF), Tax Recapture (5/50), Foundation/Philanthropy, and Tax Foreclosure Fees (DTAC), in-kind services, and Developer Fees.

Ms. Graziani reported that findings in a 2013 Michigan Land Institute Study suggest that land bank activities have a significant positive impact on the regional economy. A 2013 Cleveland study showed that REO properties acquired by a public entity (land bank, nonprofit, CDC, etc.) were three times more likely to have a beneficial outcome.

Land Trusts/Land Banks

Robert Adams, Executive Director, Housing Virginia

Mr. Adams works with the only operating land trust in Virginia: the Thomas Jefferson Community Land Trust. A community land trust is a nonprofit corporation that is a developer and a steward of permanently affordable housing on behalf of a community. The community land trust owns the land and leases the land to the homebuyer who owns the improvements.

Mr. Adams reported that one of the issues is financing. Land can cost between \$40,000 and \$60,000. The improvements cost \$140,000 for the house. Without the land trust, the house could cost \$180,000 or more.

The tradeoff for the affordability is a share of the appreciation of the house value. In Charlottesville, the homebuyer is only allowed to retain 25% of the appreciated value.

Income has not been rising as fast as housing prices, causing an affordability problem. Traditionally a subsidy is based on the buyer; a family buys a house and gets some additional assistance. When the homebuyer sells the house, the subsidy is then returned to the nonprofit for further use for a new homebuyer. Even though that money is recycled, the subsidy needs to grow over time.

The land trust controls the purchase price of a community land trust house in perpetuity. The front-end subsidy is significant. A community land trust house gets more and more affordable as it's sold and resold in the future.

Commission Updates

Elizabeth Palen, Executive Director, VHC

Ms. Palen gave an overview of housing-related legislation that was considered during the 2015 Session and presented the 2015 work group composition and chairs. Details are available on the Commission's website: <http://dls.virginia.gov/commissions/vhc.htm>.

Virginia Housing Commission

Delegate Daniel W. Marshall, III, Chair

Elizabeth Palen, Executive Director

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Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding

May 12, 2015

The Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding (the Joint Subcommittee), formed pursuant to HJR 16 (2014) and SJR 3 (2014), held its initial meeting of the second year of its two-year study in Richmond on Tuesday, May 12, 2015.

The Joint Subcommittee is tasked with formulating recommendations for the development of a comprehensive and coordinated planning effort to address recurrent flooding, including recommendations for short-term and long-term strategies for minimizing the impact of recurrent flooding. Final recommendations will be presented to the 2016 Session of the General Assembly.

Staff began the meeting by reviewing the status of Joint Subcommittee–related legislation introduced during the 2015 Session. The 2015 Session review may be found on the Joint Subcommittee’s website: http://dls.virginia.gov/interim_studies_flooding.html.

The Joint Subcommittee then heard from Col. Paul B. Olsen, P.E., Norfolk District Commander of the Army Corps of Engineers. Col. Olsen provided an update of Corps activities and explained available Corps funding programs. Details of Col. Olsen’s presentation are posted on the Joint Subcommittee’s website. Col. Olsen, who is retiring this year from his current position with the Corps, received thanks from the members of the Joint Subcommittee as well as members of the audience for his efforts and many accomplishments in the Norfolk District.

The Joint Subcommittee was also addressed by Curtis Brown, Chief Deputy State Coordinator for the Virginia Department of Emergency Management (VDEM). Mr. Brown reviewed VDEM’s pending application with the HUD National Disaster Resilience Grant Competition. The purpose of the grant program is “to provide resources to help communities plan and implement disaster recovery that makes them more resilient to future threats while improving quality of life and making communities more resilient to economic stresses or other shocks.” (HUD NDRC Guidance) Sixty-seven applicants are eligible to apply for \$ 817 million from the general pool on the basis of an unmet need attributable to at least one of the five qualifying disasters between 2011 and 2013.

The purpose of Virginia’s grant application is to develop best strategies for building resilient communities across a range of environments by developing the model seaport region that derives its economic vitality from the water. The target area for the Commonwealth’s effort is the Hampton Roads area, including the Eastern Shore. VDEM has submitted its application as part of Phase 1 and expects to hear from HUD shortly regarding eligibility to compete in Phase 2 of the competition.

Joint Subcommittee member Nikki Rovner then provided an update on the work of the Governor’s Climate Change Commission (the Commission). Ms. Rovner, who also serves on the Commission and will act as a liaison between the two groups, explained that the Commission has created several work groups that are expected to make preliminary recommendations at the Commission’s July meeting.

Next Meeting

The next meeting of the Joint Subcommittee has been scheduled for July 21, 2015, to be held in Richmond.



Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding

Delegate Christopher P. Stolle, Chair

Jeff Sharp, DLS Senior Attorney

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Joint Subcommittee to Study Mental Health Services in the 21st Century

April 16, 2015

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century met on Thursday, April 16, 2015, at the General Assembly Building in Richmond.

2015 Legislative Update

Staff gave an overview of mental health–related legislation from the 2015 Session of the General Assembly. Of particular interest to the Joint Subcommittee were its three recommendations adopted on December 16, 2014.

- **HB 1693 (Bell, Robert B.) / SB 1263 (Deeds)**

Civil admission process; alternative transportation. Recommendation adopted at 12/16/14 meeting (based on recommendation #10 of Governor’s Taskforce on Improving Mental Health Services & Crisis Response). Both bills passed House and Senate unanimously (Chapters 297 and 308, 2015 Acts of Assembly).

- **HB 2118 (Cline) / SB 1265 (Deeds)**

Acute psychiatric bed registry; frequency of updating. Recommendation adopted at 12/16/14 meeting (based on recommendation #25 of Governor’s Taskforce on Improving Mental Health Services & Crisis Response). Both bills passed House and Senate unanimously (Chapters 34 and 116, 2015 Acts of Assembly).

- **SB 1264 (Deeds)**

Law-enforcement access to involuntary admission and incapacity information. Recommendation adopted at 12/16/14 meeting (based on recommendation #14 of Governor’s Taskforce on Improving Mental Health Services & Crisis Response). Passed House and Senate unanimously (Chapter 540, 2015 Acts of Assembly).

Joint Subcommittee Discussion

The members of the Joint Subcommittee discussed the work plan for the remainder of 2105. Senator Deeds discussed the need to determine what mental health services should be provided by the Commonwealth. After the Joint Subcommittee identifies those services, it can then examine how to provide the services and how to pay for them.

The members discussed meeting dates and locations for the 2015 interim. The members agreed that, in order to fully understand the issues, the Joint Subcommittee has a duty to tour mental health facilities across the state. The Joint Subcommittee therefore agreed to hold three two-day meetings—June 30–July 1, September 24–25, and November 12–13, 2015—in appropriate locations across the state.

The members agreed to hold the June 30–July 1 meeting in the Staunton area, at which time they will tour the Commonwealth Center for Children and Adolescents and hear more about other mental health studies conducted over the years. The September and November meetings will be in the Tidewater and Northern Virginia areas, specific locations to be determined.

After receiving public comment, Senator Deeds adjourned the meeting.

June 30, 2015

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century met on Tuesday, June, 30, 2015, at the Augusta County Government Center in Verona.

Presentation: Professor Richard J. Bonnie, Director, Institute of Law, Psychiatry and Public Policy, University of Virginia School of Law

Professor Bonnie provided an overview of the history of Virginia’s laws governing involuntary commitment and the different legal models governing involuntary commitment used in the United States. Specifically, Professor Bonnie explained that states employ either the judicial certification model, in which the decision for emergency treatment is made by a judicial officer, or the medical certification model, in which the decision for emergency treatment is made by a medical professional and subsequently reviewed by a judicial officer. He noted that the two models differ in the strictness of the criteria employed and reflect differing substantive policy concerns (paternalistic v. libertarian). However, as the focus of civil commitment law has shifted from long-term hospitalization to short-term emergency hospitalization, these differences have become less pronounced.

Professor Bonnie stated that between 1968 and the present day, Virginia transformed from a state that utilizes the medical certification model to one that utilizes the judicial certification model. Prior to 1974, a person could be involuntarily committed on the basis of a medical certification of need for hospitalization. Such person could be held for up to 60 days prior to a judicial review of the decision. Professor Bonnie noted that in 1974 Virginia adopted the judicial certification model, many elements of which are still in place today. Professor Bonnie also reviewed various reforms to the commitment laws during this period, including those made during the 2015 Session of the General Assembly. Professor Bonnie also detailed the priorities that remain for future reforms of Virginia’s law, including (i) access to safe, non-stigmatizing transportation; (ii) alternatives to emergency departments for crisis evaluations; (iii) removal of impediments to voluntary admission; (iv) facilitation of the use of advance directives; and (v) continued improvement in the collection of data regarding emergency evaluations, emergency custody orders (ECO), temporary detention orders (TDO), and commitment hearings to facilitate evidence-based policy decisions. Professor Bonnie also reviewed recent trends in ECOs, TDOs, and commitment orders, beginning in April 2014, that demonstrate an increase in the frequency of ECOs and TDOs and a decrease in the number of commitment orders.



Joint Subcommittee Discussion

The members of the Joint Subcommittee discussed Professor Bonnie's presentation.

Delegate Farrell observed that the criteria for involuntary commitment and mandatory outpatient treatment (MOT) are identical and suggested that the Joint Subcommittee look at whether the MOT criteria should be different. Professor Bonnie noted that though the criteria for involuntary commitment and MOT in Virginia is identical, there is some difference between that and the criteria for "step-down" MOT (the release of an involuntarily committed person for MOT). Senator Deeds requested information on the number of persons ordered to MOT who have complied with the treatment. Professor Bonnie responded that a study would have to be done to answer that question and that it may be possible to access MOT orders and any judicial revocation of such orders.

Delegate Watts requested more information on the responsibility of someone with custodial authority over a person to obtain treatment for such person, which issue arises out of the February 2015 death of a Fairfax County mentally ill woman associated with physical restraints used by deputies taking her into custody.

Delegate Bell asked if any data suggests that the availability and use of more early intervention, such as crisis stabilization units, reduces the numbers of commitments. Professor Bonnie stated that there is data in Virginia that shows that such early intervention can reduce the number of persons who need commitment or otherwise suffer a mental health crisis.

Senator Howell requested more information regarding the training of special justices used in the commitment process.

Public Comment

After receiving public comment, Senator Deeds announced that the Joint Subcommittee would be taking an informational tour of the Commonwealth Center for Children and Adolescents and then adjourned the meeting.

July 1, 2015

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century met on Wednesday, July, 1, 2015, at Valley Community Services Board, 85 Sangers Lane, in Staunton.

Presentation: David Deering, Executive Director, Valley Community Services Board

Mr. Deering provided an overview of the Valley Community Services Board (CSB), including its organization, services, facilities, and priorities and challenges. Mr. Deering noted that there are 40 unique community services boards and behavioral health authorities in Virginia and that a similar presentation from each would vary greatly.

Mr. Deering stated that the Valley CSB serves a population of 125,000 in Augusta County, Highland County, Waynesboro, and Staunton. The Joint Subcommittee inquired about funding allocations across localities. Mr. Deering noted that the Valley CSB has worked with the localities to find a fair allocation method. While the Valley CSB has not always received the 10 percent mandated local match, things have gotten better as they have worked towards a more fair allocation. The Joint Subcommittee noted that receiving the 10 percent mandated local match has been a problem for many CSBs.

Mr. Deering discussed the qualifications needed to become a pre-screener at the Valley CSB. Delegate Garrett inquired about the standardization of such qualifications. Valley CSB staff noted that they require their pre-screeners to understand and be able to work within their system because pre-screeners are required to do more than pre-screen.

Mr. Deering highlighted several services provided by the Valley CSB, including the “My Action Plan” card. Individuals carrying the “My Action Card” can present the card to law enforcement during an encounter, which gives the law-enforcement officer quick confirmation of the individual’s mental health needs.

Delegate Watts inquired about the mandatory outpatient treatment services (MOT) provided by the Valley CSB. Mr. Deering noted that MOT has not been as successful as he and his staff would like, but the region has had a lot of success with drug courts and therapeutic dockets.

Sheriff Timothy Duff, of Highland County, stated that the telemedicine services implemented by Valley CSB have saved him and his staff a significant amount of time transporting individuals to the emergency department. In addition, Sheriff Duff reported that 100 percent of his deputies and dispatch personnel had received crisis intervention training and that this training had improved their response to individuals in mental health crisis.

Mr. Deering outlined the significant funding challenges the Valley CSB faces. The funding challenges have led the Valley CSB to close residential programs in favor of community-based programs. The Joint Subcommittee discussed the financial impact of additional Medicaid funding, the recently approved GAP program, and the possibility of standardizing services across community services boards.

Public Comment

Senator Deeds asked if any members of the public would like to speak. The brother of a resident in a residential facility scheduled to be closed commented on the hardship the closing would cause his brother. The Joint Subcommittee discussed the challenges the man’s brother faces. After further public comment, Senator Deeds adjourned the meeting.

Joint Subcommittee to Study Mental Health Services in the 21st Century

Senator R. Creigh Deeds, Chair

David Cotter, DLS Senior Attorney

Sarah Stanton, DLS Senior Attorney

Tom Stevens, DLS Attorney

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dls.virginia.gov/interim_studies_MHS.html

World War II 75th Anniversary Commemoration Commission

July 7, 2015

The World War II 75th Anniversary Commemoration Commission (the Commission) held its first meeting in Richmond on July 7, 2015. Delegate M. Kirkland Cox was elected chairman and Senator Frank M. Ruff, Jr., was elected vice-chairman.



Staff Briefing

Cheryl Jackson, Division of Legislative Services

The Commission was created in the 2014 Appropriation Act (2014 Special Session I, c. 2; Item 1, Section P.1) to plan, develop, and carry out programs and activities to commemorate the 75th anniversary of World War II, including a national reunion of living veterans. It is composed of four members of the House of Delegates, two members of the Senate of Virginia, and two nonlegislative citizen members (BG Mountcastle and Dr. Charles Bryan). The Commissioner of the Department of Veterans Services and the Executive Director of the Virginia War Memorial serve as ex officio members with nonvoting privileges. Technical assistance is provided to the Commission by the Department of Veterans Services and the Virginia War Memorial. The Commission is funded by unexpended balances from the Virginia Sesquicentennial of the American Civil War Commission in the amount of \$1 million.

Ms. Jackson reviewed important dates in World War II and discussed determining the goals and scope of the Commission's work, including coordinating and collaborating with national partners. Ms. Jackson reviewed the work of the Virginia Sesquicentennial of the American Civil War Commission (the Sesquicentennial Commission), which included grants to localities, a document-scanning project, major museum exhibitions, a traveling HistoryMobile, and a series of seven Signature Conferences held at universities across the state.

Members asked for more information about the Sesquicentennial Commission grant program, which was administered by the Virginia Tourism Corporation and which provided 1:1 matching grants to local partners to market and promote sesquicentennial events and programs, including funding new Civil War Trails interpretive markers. The grants were available on a reimbursable basis, and each recipient was required to collaborate with at least three partners, including the local tourism office or destination marketing organization. In total, the grant program awarded \$253,000, which was matched by an additional \$344,000 from recipient organizations and partners.

Members also expressed interest in repurposing the Civil War 150 HistoryMobile and requested additional information on plans for its use after the conclusion of sesquicentennial activities.

Importance of World War II and Opportunities to Commemorate Its 75th Anniversary

Dr. Charles F. Bryan, Jr., Commission member and president emeritus of the Virginia Historical Society

Dr. Bryan gave members a quiz that highlighted the importance of World War II. The year 2016 will mark the 75th anniversary of America's entry into World War II, marking a turning point in a conflict that had been raging since September 1939. More than 16 million men and women joined the fight, with over 400,000 Americans paying the ultimate price of freedom. Although World War II was not waged on Virginia soil, the Commonwealth can lay claim to being one of the country's most important World War II-related states. Numerous military posts and bases (including the Pentagon) were located throughout the Commonwealth. Virginia industry, especially ship building, contributed greatly to the American war effort. Among southern states, Virginia ranked second only to Texas in war-related contracts. Many of the war's most famous American commanders—notably George C. Marshall, Alexander Archer Vandergrift, Douglas MacArthur, and George S. Patton—had strong ties to Virginia. More than 300,000 Virginians served in uniform, some 7,000 of whom died.

Dr. Bryan discussed the last great reunion of Civil War veterans from the north and south, which took place in July 1938, on the 75th anniversary of the Battle of Gettysburg. At the time, the nation was aware that the last living links to a turning point in our nation's history were slipping away. Some 1,900 Union and Confederate veterans, many in uniform, came to Gettysburg to share stories and be honored.

President Franklin Roosevelt attended and gave a speech at the dedication of the Peace Monument on Oak Hill. One year later, only two Civil War veterans remained alive.

According to U.S. Department of Veterans Affairs figures, there are only about 1.2 million World War II veterans alive today, and that total falls by approximately 600 every day. As was done for Civil War veterans in 1938, the dwindling number of World War II veterans should be recognized as the “final living threads to a fabled American past.”

Discussion of Plans

Members discussed the goals of the commemoration, including tourism, education, and local programs held statewide. There was a strong consensus that the reunion event should be held in late 2016, as the aging of veterans works against a longer planning time. Members discussed the scope, location, and duration of the reunion event and directed staff to collect ideas and develop a proposed event outline for discussion at the next meeting.

Next Meeting

The next meeting will be held September 8, 2015, at 11:00 a.m. in Richmond.

World War II 75th Anniversary Commemoration Commission

Delegate M. Kirkland Cox, Chair

Cheryl Jackson, Executive Director

804-786-3591 ext. 276

Other Legislative Commissions and Committees

The following legislative commissions and committees are not staffed by DLS. They also hold regular meetings during the interim. Visit their websites to obtain full information regarding their meeting dates, agendas, and summaries.

Virginia State Crime Commission

vscc.virginia.gov/meetings.asp

Joint Commission on Health Care

jchc.virginia.gov/meetings.asp

Joint Legislative Audit and Review Commission (JLARC)

jlarc.virginia.gov/meetings.shtml

Virginia Commission on Youth

vcoy.virginia.gov/meetings.asp

House Appropriations Committee

hac.virginia.gov/

Senate Finance Committee

sfc.virginia.gov/



Legislative Meeting Calendar for August and September 2015

August 4	2 p.m.	Commission on Unemployment Compensation	Senate Room B, GAB
August 13	10 a.m.	Jamestown-Yorktown Foundation Board of Trustees Executive and Finance Committees	McGuireWoods, LLP Conf. Room, 800 East Canal Street, Richmond
	10 a.m.	Joint Commission on Administrative Rules	Senate Room A, GAB
August 17	10 a.m.	Virginia Disability Commission	Senate Room A, GAB
August 18	9 a.m.	Joint Committee to Study Staffing Levels and Employment Conditions at the Department of Corrections	Wallens Ridge State Prison, 272 Dogwood Drive, Big Stone Gap
August 19	10 a.m.	Virginia Code Commission	6th Floor Speaker's Conference Room, GAB
	1 p.m.	Joint Commission on Technology and Science (JCOTS)	House Room D, GAB
	1 p.m.	Virginia Freedom of Information Advisory Council Meetings Subcommittee	House Room 1, The Capitol
August 20	10 a.m.	Tobacco Region Revitalization Commission Research and Development Vetting Committee	Bedford Welcome Center, 816 Burks Road, Bedford
August 25	11:30 a.m.	Joint Subcommittee for Reforming the Virginia Preschool Initiative	10th Floor Conference Room, GAB
August 27	9:30 a.m.	Joint Meeting of the House Appropriations, House Finance, and Senate Finance Committees	House Room D, GAB
		Jamestown-Yorktown Foundation 2019 Commemoration Steering Committee	Senate Room 3, The Capitol
September 2	TBD	Special Joint Subcommittee to Consult on the Plan to Close State Training Centers	Northern Virginia Training Center, Fairfax
	10 a.m.	Virginia Housing Commission Affordability, Real Estate Law, and Mortgages Work Group	House Room C, GAB
	10:30 a.m.	Tobacco Region Revitalization Commission Special Projects/Innovation Committee	Hotel Roanoke and Conference Center, 110 Shenandoah Avenue NW, Roanoke
	1:30 p.m.	Tobacco Region Revitalization Commission Southwest Economic Development Committee	Hotel Roanoke and Conference Center, 110 Shenandoah Avenue NW, Roanoke

September 8	10 a.m.	Virginia Code Commission	6th Floor Speaker's Conference Room, GAB
	10 a.m.	Virginia Commission on Youth	House Room C, GAB
	1 p.m.	Virginia Commission on Youth Advisory Group: "Study on the Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities"	Senate Room 3, The Capitol
	1 p.m.	Joint Subcommittee to Evaluate Tax Preferences	House Room D, GAB
September 9	10 a.m.	Joint Commission on Health Care Healthy Living/Health Services Subcommittee	Senate Room A, GAB
	noon	House Committee on Agriculture, Chesapeake and Natural Resources Chesapeake Subcommittee Retreat	Kinsale
	1 p.m.	Joint Commission on Health Care Behavioral Health Care Subcommittee	Senate Room A, GAB
September 10	9 a.m.	House Committee on Agriculture, Chesapeake and Natural Resources Chesapeake Subcommittee Retreat	Virginia Institute for Marine Science, Gloucester Point
September 11	10 a.m.	Tobacco Region Revitalization Commission Education Committee	Southern Virginia Higher Education Center, 820 Bruce Street, South Boston
September 14	10 a.m.	Joint Legislative Audit and Review Commission (JLARC)	Senate Room A, GAB
	1:30 p.m.	Joint Subcommittee on the Future Competitiveness of Virginia Higher Education	Location to be announced
September 16	10 a.m.	JCOTS Nanosatellites Advisory Committee	House Room D, GAB
	1 p.m.	JCOTS	House Room D, GAB
September 17	9:30 a.m.	Senate Committee on Finance	10th Floor Conference Room, GAB
	12:30 p.m.	Senate Committee on Finance Public Safety Subcommittee	10th Floor Conference Room, GAB
September 21	TBA	House Committee on Appropriations	Location to be announced
	1 p.m.	Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding	Virginia Institute for Marine Science, 1375 Greate Road, Gloucester Point



September 22	10 a.m.	Virginia Commission on Youth School Division's Policies for Student- Athlete Concussions	Department of Health Professions, Perimeter Center, Suite 300, Bd Room 2, 9960 Mayland Drive, Henrico
September 23	10 a.m.	Tobacco Region Revitalization Commission	Wytheville Meeting Center, 333 Community Boulevard, Wytheville
September 29	10 a.m.	Virginia State Crime Commission	Senate Room A, GAB
September 30	10 a.m.	Virginia Freedom of Information Advisory Council	House Room D, GAB

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

Law Portal Updated July 1, 2015

Virginia Law Portal: A New Look for Virginia's Laws

Visit the Virginia Law Portal (law.lis.virginia.gov) for publications that constitute "Virginia law," including the Code of Virginia, the Virginia Administrative Code, the Constitution of Virginia, Compacts, Charters, Authorities, and Uncodified Acts of Assembly. For updates, follow Virginia Law on Twitter @VA_Laws.

Code of Virginia and Other Databases Updated

The Code of Virginia and the Compacts, Charters, Authorities, and Uncodified Acts databases on the **Virginia Law Portal website** were updated on July 1 to reflect changes made during the 2015 Session.

Links to the Code of Virginia

Effective July 1, 2015, the Legislative Information System (LIS) on-line version of the Code of Virginia will be updated and supported only on the Virginia Law Portal website, <http://law.lis.virginia.gov/>. All Code of Virginia laws that were enacted, amended, or repealed during the 2015 Regular Session will be available on LIS only at the web address of <http://law.lis.virginia.gov/vacode>. Users who access the LIS on-line version of the Code of Virginia through bookmarks, favorites, or any web address that contains any variation of <http://lis.virginia.gov/000/src.htm> or <https://leg1.state.va.us/000/src.htm> or <http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+TOC> will be re-directed to either the **Virginia Law Portal website**, the Table of Contents webpage for the **Code of Virginia**, or to a specific Code of Virginia section. To ensure prompt access to the LIS Code of Virginia, users should update existing bookmarks, favorites, etc., to reflect the web address of <http://law.lis.virginia.gov/vacode>.

Complete information on meetings during the 2015 interim is available on the website of the Division of Legislative Services (<http://dls.virginia.gov/commissions.html>).

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