September/October 2015 Issue

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

Virginia Division of Legislative Services

Virginia Legislative Record

Volume 25 Issue 4

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.

2015 Interim Meeting Summaries

2015 Interim News and Meeting Calendar

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 Code Commission

August 19, 2015

The Virginia Code Commission (the Commission) met on August 19, 2015, with Senator John Edwards, chair, presiding.

Discussion of Next Code of Virginia Title Recodification

Titles 8.01 (Civil Remedies & Procedure), 36 (Housing), 40.1 (Labor & Employment), 45.1 (Mines & Mining), and 55 (Property & Conveyances) were offered as potential recodification candidates. Bob Tavenner, DLS Director, explained that the list of suggested title recodifications are based on recommendations of Commission members and DLS staff.

Kristen Walsh, DLS attorney for the Senate Committee for Courts of Justice, discussed reasons for and against recodifying Title 8.01. Ms. Walsh reported that she contacted various organizations representing practitioners who use Title 8.01 and found that the overarching consensus is that practitioners are satisfied with the current structure of Title 8.01 and can easily find the information they need. She further stated that only 33 sections, or three percent, of the title have been repealed since the title was recodified in 1977. As to reasons for recodifying the title, Ms. Walsh explained that the numbering scheme is not structured in the current format, which embeds chapters into the section number, and the title is difficult for a layperson to navigate without attorney guidance.

Steve Pearson, speaking on behalf of the Virginia Trial Lawyers Association (VTLA), stated that the consensus of VTLA is that the lawyers and judges understand Title 8.01 as it currently exists. Recodifying this title would be an enormous effort that would not result in a huge benefit because it is already clear to those who use it. Jeff Palmore, speaking on behalf of the Virginia Bar Association (VBA), stated that there is no consensus among the VBA members.

The Commission discussed the unwieldy size of the code volume that contains Title 8.01 and the placement of statutes of limitations that are outside of Title 8.01. The members also discussed where to place efforts and extend resources to achieve the most benefit, emphasizing that the size of the task and lack of desire to learn new code section numbers are not valid reasons to avoid recodifying any title. At the end of the discussion, no motion was made to recodify Title 8.01.

Mr. Tavenner stated that an in-depth analysis of the remaining titles on the list has not been performed. David Cotter stated that he spoke with Grice McMullan, who first approached the Commission in 2009 about the need to recodify Title 55 during his tenure as president of the Real Estate Section of the Virginia Bar Association, and there appears to be continued interest in undertaking a revision of Title 55. Bob Calhoun agrees with the sentiment that Title 55 should be redone and suggested the possibility of doing Title 45.1 at the same time. Mr. Palmore requested that he be given an opportunity to obtain feedback from circuit court clerks and other stakeholders before the Commission makes a decision.

Mr. Tavenner stated that DLS will research all suggestions, consult with interested parties and stakeholders, and make a full report at a future meeting.

Removal of Comma in § 2.2-3101, Definition of "Contract"

Tom Moncure explained that in the definitions section (§ 2.2-3101) of the State and Local Government Conflict of Interests Act, the definition of "contract" contains an erroneous comma and asked the

members if they concur in his conclusion. Mr. Moncure stated that the first comma in the definition, after the word "party," should be removed as shown and highlighted below:

> "Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof.

As currently written, one can argue that there is no implication of payment of public funds unless the agreement is made on behalf of a governmental agency. In other words, a contract is any agreement to which a governmental agency is a party irrespective of whether the agreement involves the payment of public funds.

The Commission discussed its authority to correct "unmistakable errors." Since the Commission is unsure of the original intent of the legislation and the comma appears in numerous acts of assembly amending this section, the Commission determined that this change could be considered substantive and should be made through legislation.

Proposed Code Commission Regulations Issued Under the Virginia Register Act

Karen Perrine, Assistant Registrar of Regulations

Ms. Perrine briefed the Commission on the background of the Code Commission regulations and stated that the regulations were last amended in 1994. The proposed amendments were developed by a work group consisting of staff of the Registrar's office and two experienced agency regulatory coordinators. After receiving the Commission's feedback and approval of the proposed amendments, staff will solicit comment on the proposal from state agencies and other stakeholders and interested parties. Ms. Perrine plans to present final regulations for adoption at the November meeting.

Ms. Perrine highlighted a number of proposed changes, including (i) the elimination of the provision that permits an agency to file certain regulations by description in lieu of filing full text, noting that filing by description is different from incorporating a document by reference; (ii) the ability to update forms associated with a regulation without going through the standard regulatory process; (iii) a provision prohibiting an agency from incorporating its own document by reference; (iv) a provision allowing the Registrar to omit certain nonregulatory provisions in the Virginia Administrative Code; (v) in situations when a regulatory action is permitted to be effective on the same day that it is filed with the Registrar's office, a provision encouraging agencies to set the effective date at least three days after filing to give ample time for the Registrar's office to review and process the regulations before posting them online and incorporating them into the administrative code; (vi) the addition of several general rules of construction based on the Code of Virginia; (vii) computation of a time period based on publication in the Virginia Register; (viii) a provision clarifying that the PDF version of the Virginia Register is the official version; and (ix) other updates to reflect statutory changes, current terminology, and current practices and technology.

The Commission suggested having ALAC review the proposed regulations and also requested staff to bring to a future meeting examples of regulatory text that incorporates documents by reference.

The Commission approved the proposed regulations with minor amendments to send out to interested parties and stakeholders for comment.

Recodification of Title 23, Educational Institutions

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

Mr. Brimmer reported on the three issues raised at the July meeting:

- The provision regarding confirmation of board of visitors' members for Virginia Polytechnic Institute and State University by only the Senate instead of by the House and Senate was questioned. The opinion of DLS staff and counsel for Virginia Tech is that the provision is constitutional under Article V, Section 7 of the Virginia Constitution.
- Staff is continuing to investigate a concern expressed with existing language in § 23-9.2:8 (proposed § 23.1-802 B) pertaining to who is notified when a college student is involuntarily committed to a mental health facility and whether the statute is contradictory to privacy laws.
- The Commission had discussed whether an added reference to the appointment of auxiliary police forces was necessary. Staff reported that the Virginia Association of Chiefs of Police confirmed that some institutions have auxiliary police forces; therefore, § 23.1-812 B pertaining to the appointment of auxiliary police forces will be retained.

Mr. Brimmer presented for the first time proposed Chapters 11 (Bonds and Other Obligations), 12 (Virginia College Building Authority), and 30 (Eastern Virginia Medical School).

Mr. Brimmer advised that proposed Chapter 11, Bonds and Other Obligations, has been reviewed by the Department of the Treasury, the State Council of Higher Education for Virginia, bond counsel, and the Office of the Attorney General. The goal was to make technical changes only.

In proposed Chapter 12, Virginia College Building Authority, the Commission discussed a point raised by Mr. Calhoun concerning changing of the term "municipal officer" to "local officer" (proposed § 23.1-1214) and the fact that "local" has a broader application than "municipal." Mr. Brimmer stated that the work group believed the reference "municipal officer" was faulty. The Commission directed staff to use the term "officer of a locality" instead of "local officer."

Mr. Brimmer noted that the provisions regarding Eastern Virginia Medical School (EVMS) are only in the Acts of Assembly, and he has included the full text of the acts into new Chapter 30.

The Commission listened to staff recommendations and discussed updates to Chapters 13 (Governing Boards of Public Institutions), 18 (University of Mary Washington), 19 (Norfolk State University), 20 (Old Dominion University), 21 (Radford University), 22 (University of Virginia), 23 (Virginia Commonwealth University), and 24 (Virginia Commonwealth University Health System Authority), which were previously reviewed by the Commission. In addition, Mr. Brimmer noted the proposed change in the name of new Title 23.1 to "Institutions of Higher Education; Other Educational and Cultural Institutions."

Mr. Moncure directed the members' attention to the sovereign immunity language for the boards of visitors of the University of Mary Washington and Radford University. He compared these provisions with a similar provision granting corporate powers to Norfolk State University, which does not contain the sovereign immunity language. Mr. Moncure noted that anywhere corporate powers are granted, the sovereign immunity provisions should be consistent for all boards of visitors—either included in or removed from all. After discussion and input from representatives of the public institutions of higher education, the Commission voted to remove the sovereign immunity provisions as unnecessary.

Next Meetings

The Commission met on Wednesday, September 9, 2015, and Monday, October 5, 2015.

Virginia Code Commission

Senator John S. Edwards, Chair
Jane Chaffin, DLS Staff
804-786-3591 ext. 262
codecommission.dls.virginia.gov/

Virginia Freedom of Information Advisory Council

July 22, 2015

The Virginia Freedom of Information Advisory Council (the Council) held its second meeting of the 2015 interim on July 22, 2015, in Richmond to receive progress reports from the Records Subcommittee and the Meetings Subcommittee (the Subcommittees), which were created in 2014 as part of the study of FOIA in accordance with House Joint Resolution No. 96, and to discuss other issues of interest to the Council.

Delegate Jim LeMunyon, vice-chair, called the meeting to order and welcomed the Council's newest member, Marisa Porto. Ms. Porto, vice president of content for the *Daily Press* in Newport News, was appointed by the Speaker of the House of Delegates to a four-year term as the media representative to the Council. Delegate LeMunyon also noted that Stephanie Hamlett has been reappointed to another four-year term on the Council.

Subcommittee Reports

Alan Gernhardt, Council staff attorney, advised the Council that the Records Subcommittee had met three times during the 2015 Interim (May 11, June 18, and July 22) to continue its study of records exemptions as directed by HJR No. 96 and pursuant to the study plan adopted by the Council. Specific information about the sections of FOIA reviewed by the Records Subcommittee beginning in 2014 and the recommendations of the Records Subcommittee as of July 22, 2015, is available in Appendix A on the FOIA website.

Delegate LeMunyon called for public comment on the work of the Records Subcommittee. Dave Ress, a reporter with the *Daily Press,* opined that the working papers exemption in Virginia is overly broad and should be addressed. Mr. Ress also noted that the use of the personnel meeting exemption is too broadly applied and in contravention of a 1999 Attorney General's opinion on the topic. David Ogburn, representing Verizon, advised the Council that the term "telecommunication carriers" contained in the FOIA records exemptions is out of date. He suggested that staff contact the State Corporation Commission to ascertain the most current terminology. Craig Merritt, representing the Virginia Press Association (VPA), cautioned the Council that recommendations by the Subcommittees for "no change" are somewhat misleading. In some cases, a "no change" recommendation is a result of a lack of consensus over heavily debated issues; in other cases, a "no change" recommendation is made because the exemption was unchallenged and hence not discussed further. Delegate LeMunyon asked if there were any "no change" recommendations that VPA would like to see changed. Mr. Merritt explained that

the VPA has picked its battles and its concern is, more broadly, that when no affected agency comes to a subcommittee meeting, there is no opportunity to respond. Michael Bogacki and David M. Lindsey, both representing the Unalienable Rights Foundation, did not comment about the work of the Subcommittees, but instead provided general comments about the Virginia Public Records Act, previous FOIA cases decided by the Virginia Supreme Court, and specific advisory opinions of the Council. In addition, Mr. Bogacki served Council staff with a FOIA petition for alleged violations of FOIA and the Virginia Public Records Act committed on the day of this meeting.

Council member Kathleen Dooley, chair of the Meetings Subcommittee, advised the Council that the Meetings Subcommittee had met three times during the 2015 Interim (May 12, June 17, and July 21) to continue its study of meeting exemptions as directed by HJR No. 96 and pursuant to the study plan adopted by the Council. Specific information about the sections of FOIA reviewed by the Meetings Subcommittee beginning in 2014 and the recommendations of the Meetings Subcommittee as of July 22, 2015, is available in Appendix A on the FOIA website.

Delegate LeMunyon requested comment from the Council regarding the work of the Subcommittees. Frosty Landon expressed concerns about the use of the personnel exemptions (for both records and meetings) and related issues concerning the working papers exemption and determining who the custodian of records at any given agency is. He observed that these issues may confuse the public and raise questions of accountability.

The Council then heard public comment. Mr. Ress reiterated concerns about the use of the personnel exemption for closed meetings and how it may be used more broadly than intended. In response to a question from Delegate LeMunyon, Mr. Ress maintained that the exemption is applied in a haphazard and overly broad way and that tighter language would help officials and the public know what is covered.

Mr. Lindsey asserted that the Virginia Public Records Act clearly identifies the heads of agencies and the custodians of public records. He further asserted that FOIA exemptions violate provisions of the Constitution of Virginia and United States Constitution (specifically, Mr. Lindsey referred to Va. Const. art. I, §§ 2 and 12, and U.S. Const. amend. I and XIV) and expressed his disagreement with the conclusion of Freedom of Information Advisory Opinion 05 (2006). Noting that every advisory opinion begins with a statement that it is based on the facts presented by the person requesting the opinion, he stated that he felt FOIA Council staff was not getting complete information when writing advisory opinions.

Other Business

Staff noted that the study plan for HJR No. 96 adopted in 2014 was incorporated for reference. The next issue of business was the appointment of a Council member to the Meetings Subcommittee to fill the vacancy created by the July 1, 2015, expiration of George Whitehurst's term on the FOIA Council. Ms. Porto volunteered to serve on both the Meetings Subcommittee and the Records Subcommittee.

The agenda item entitled "Exercise of FOIA Council's statutory duties" was deferred until the next Council meeting in September due to Tim Oksman's absence.

Maria Everett, Executive Director, informed the Council that response to the announcement of the discontinuation of the annual FOIA seminars in favor of more individualized training by arrangement has been overwhelmingly positive.

Public Comment

The Council received additional public comment on FOIA generally and other access issues. Mr. Ress informed the Council that he had been a reporter in Virginia since 1990, that he had also reported in New Jersey, Illinois, Quebec, London, and Africa, and that those experiences gave him perspective. He advised the Council that the study of FOIA should be fundamental to ensure that the law delivers to Virginia citizens the information they have a right to know. He noted that Virginia exemptions for working papers, criminal investigative files, suicide reports, and public utilities are different from other states' approaches and that in these areas Virginia FOIA is not good. Mr. Ress also stated he believed that the cost of producing records under a FOIA request should be carefully examined; though FOIA exemptions are discretionary, they are treated as mandatory, and many citizens cannot afford the costly enforcement of FOIA rights. Delegate LeMunyon inquired how best to put teeth in FOIA enforcement. Mr. Ress responded that the Council should enforce the law or, alternatively, the Attorney General should bring cases on behalf of citizens. He also suggested examining the level of fines, considering whether a violation should be a criminal misdemeanor or incur a civil penalty, and making provisions for obtaining notes from a closed meeting if it is determined that the meeting was closed improperly. Delegate LeMunyon asked about comparison studies with other states. Mr. Ress stated that he had looked for but did not find any good studies and that comparing statutes directly was a chore.

Next Council Meeting

The Council met on Wednesday, September 30, 2015.

Virginia Freedom of Information Advisory Council

Senator Richard H. Stuart, Chair
Maria J.K. Everett, Executive Director and Senior Attorney
Alan Gernhardt, Staff Attorney
804-225-3056 or 866-448-4100
foiacouncil.dls.virginia.gov

Health Insurance Reform Commission

September 8, 2015

The second meeting of the Health Insurance Reform Commission (the Commission) during the 2015 interim, held on September 8, 2015, had been scheduled to include action on the Step One assessments of House Bill 2156 (2015) (coverage for hearing aids) and Senate Bill 1277 (2015) (coverage for prescription contraceptives). However, decisions by the Commission on whether to direct the Bureau of Insurance (BOI) and Joint Legislative Audit and Review Commission to conduct a Step Two assessment for either or both of these measures had to be deferred for lack of a quorum. The following members attended the meeting: Delegate Kathy Byron (chair of the Commission), Delegate Eileen Filler-Corn, Senator John Watkins, Senator Rosalyn Dance, and Commissioner of Insurance Jacqueline Cunningham.

Patient Protection and Affordable Care Act: Effects on Employers

John M. Peterson, Esq., of Kaufman & Canoles in Norfolk provided the Commission with examples of the concerns of businesses in Virginia as a result of implementation of provisions of the federal Patient Protection and Affordable Care Act (the Act). These concerns include accurately calculating and reporting the number of employees; preparing and filing new tax forms, including Form 1095-C; and posting a workplace notice regarding health coverage and the Marketplace. Among the pitfalls employers face as the Act is phased in are the prohibited practices of (i) reimbursing employees for an individual policy's premiums, (ii) providing employees age 65 or older with incentives to decline the employer's coverage and select Medicare, and (iii) giving all employees regardless of age an equal dollar amount health plan premium payment, which, when older workers pay a greater amount for coverage, has been found to violate the federal Age Discrimination in Employment Act.

Mr. Peterson identified three additional implementation issues that have yet to be fully felt by employers. First, the Internal Revenue Service (IRS) is expected to issue nondiscrimination rules that may affect how plans are structured and offered later in 2016 or in 2017. Second, the 40 percent excise tax on comparatively generous "Cadillac" coverage is scheduled to start in 2018. Mr. Peterson ventured that this part of the Act, if not repealed or amended, will lead employers to cease providing certain benefits in health plans, such as flexible spending accounts. Third, additional funding has been appropriated to the federal Department of Labor for auditing of health care plans. Employers found to be not in compliance with certain provisions of the Act may be subject to penalties of $100 per day per affected employee.

In response to a question by Senator John Watkins, Mr. Peterson explained that the IRS is using rules developed under § 414 of the Internal Revenue Code to determine if related or affiliated businesses are subject to aggregation for the purpose of determining the business's number of employees. Mr. Peterson has observed that, as this year's filing deadlines approach, many employers are concerned about their potential exposure to penalties, some of which have recently been doubled by Congress in order to fund unrelated transportation legislation.

Senate Bill 760: Medicare Supplement Policies

In response to a request made during the Commission's July 15, 2015, meeting, Jim Young of the BOI presented the results of a survey of the 32 issuers of Medicare supplement policies in Virginia. The survey asked how these insurers would react if the provisions of Senate Bill 760 (2015) were enacted. That bill would have required that any insurer issuing Medicare supplement policies in Virginia to persons age 65 or older also offer such policies to persons under age 65 who are eligible for Medicare because of a disability.

Most of the 30 insurers that responded to the survey indicated that the enactment of the provisions of Senate Bill 760 would have an effect on their current Medicare supplement market. Effects cited by insurers included increased costs to develop and file new products. However, seven respondents said there would be no impact, and no respondent reported that the enactment of such a measure would result in its leaving the marketplace.

The survey responses indicated that the companies would offer plans to disabled, Medicare-eligible individuals under age 65 at a premium differential that ranged from one and a half times greater to five times greater than the premium for the company's current Medicare supplement plan. The Commission concluded that the BOI survey addressed the questions regarding Senate Bill 760 that prompted the

bill's referral to the Commission for review. Upon providing a copy of the survey results to Senator John Edwards, no further action by the Commission would be required.

Final Rules on Notice of Benefit and Payment Parameters for 2016

Staff provided the Commission with an overview of 16 provisions in the final rules issued by the federal Department of Health and Human Services (HHS) on the Notice of Benefit and Payment Parameters for 2016. The final rules address a wide range of topics. However, the Commission's attention was directed to provisions addressing coverage for habilitative services and devices, benefits discrimination, prescription drug coverage, rate reviews, cost-sharing limits, and the determination that health plans offered by large employers must provide substantial coverage of both inpatient hospital services and physician services in order to be found to be providing minimum value.

With regard to the user fees collected by HHS from participating issuers to fund operations of the federal marketplace, the final rules continued the existing assessment rate of 3.5 percent of monthly premiums. In response to a request by Senator Watkins, Commissioner of Insurance Jackie Cunningham agreed to work with the Virginia Association of Health Plans and other sources to identify the amount of such user fees collected annually with respect to plans issued in Virginia, including fees paid directly from purchasers not receiving subsidies and fees paid in part or in full through federal subsidies provided to certain persons purchasing coverage through the Exchange.

Commissioner Cunningham told the Commission that nothing in the final rules for 2016 necessitates the enactment of legislation in the upcoming General Assembly session. Current state law requires that health plans sold in the individual and small group markets provide essential health benefits, so changes in the elements of such benefits would automatically be incorporated into Virginia's requirements for such plans. The BOI has already reviewed plans for 2016, and those approved plans are considered to comply with the requirements for 2016.

Senate Bill 1394: Specialty Tier Drugs

Senate Bill 1394, introduced by Senator Rosalyn Dance in the 2015 Session, would have imposed a limit on the coinsurance or copayment amounts for specialty tier drugs and would have prohibited health plans from placing all drugs in a given class of drugs on the highest cost tier. At its previous meeting, the Commission opted to avoid duplicating the work done by the Joint Commission on Health Care (the Joint Commission) during its two-year study of the impact of cost-sharing, coinsurance, and specialty tier pricing on access to prescription medications for chronic health disorders pursuant to House Joint Resolution 579 (2011). The Commission further decided to focus its review of the issues raised by Senate Bill 1394 on the antidiscrimination provisions of § 1557 of the Act.

Michele Chesser, Senior Health Policy Analyst with the Joint Commission, presented an overview of specialty tier pricing of prescription medications. The information, which had been presented to the Joint Commission in 2012, provided members with background on such topics as specialty drugs, the use of cost-sharing tiers, and the coinsurance payments required for prescription medications on the specialty tier. Ms. Chesser also summarized the policy options considered and the recommendation reached by the Joint Commission in the course of its study.

Julie Blauvelt of the BOI gave the Commission a detailed report on the BOI's use of tools provided by the federal Centers for Medicare & Medicaid Services (CMS) for use in the BOI's review of qualified health plans. The CMS tools are designed to help regulators identify potentially discriminatory benefit designs, including designs related to specialty tier prescription drugs. Ms. Blauvelt noted that, in

addition to the provisions of the Act and its regulations, § 38.2-508 of the Code of Virginia prohibits unfair discrimination in any of the terms and conditions of a health insurance policy. She advised that while unfair discrimination is prohibited, placing drugs in tiers and managing cost-sharing can be permissible means of designing a plan to encourage efficient utilization of a covered benefit.

The federal market review tools made available by CMS are useful in helping the BOI identify cost-share outliers. A federal nondiscrimination review tool includes formulas used to determine outliers for specialty prescription medications. When such outliers are identified during the plan review process, the plan's carrier is asked either to change the plan or to explain why the proposed plan is not discriminatory.

Members of the Commission raised questions about the use of television advertising by manufacturers of pharmaceuticals that often are placed on a carrier's specialty tier. Members asked whether data was available that showed the portion of the cost of such prescription medications that was spent on marketing.

Kelly Fitzpatrick of Fair Copay VA Coalition reported on actions in other states regarding potentially discriminatory benefit designs. She identified Montana, California, Illinois, and Florida as states that have taken action to address benefit designs that were found to be discriminatory.

Under a negotiated agreement reached by Montana's Insurance Commissioner and insurers in the state's individual market, plans will apply only fixed copayments, and not coinsurance percentages, for silver-, gold-, and platinum-level plans. The action relied on the model unfair trade practices law that requires uniformity in all pre-deductible cost-sharing designs. Insurance regulators in Florida and Illinois took enforcement actions in 2014 against insurers that moved all or most drugs for certain conditions into specialty tiers. Pending legislation in California prohibits insurers from discouraging enrollment of individuals with a particular condition or reducing the generosity of the benefit for persons with a particular condition.

Other Matters

Ms. Blauvelt reported that she had been informed by an official at the federal Center for Consumer Information & Insurance Oversight (CCIIO) that neither House Bill 1747, which required mental health benefits parity, or House Bill 1940, which amended the age provisions of the mandate for coverage of certain autism treatments in large group policies, would trigger state liability under § 1311(d) of the Act for the incremental costs of the benefits provided. Ms. Blauvelt was asked to find out if the CCIIO would consent to the release of the agency's email to the members of the Commission.

Ms. Blauvelt also reported on the BOI's recommendations for qualified health plans (QHPs) for 2016. Of the 12 carriers for which QHP applications were received and recommended for the individual Exchange for 2016, three are new carriers. One of the new carriers will offer plans in the small business (SHOP) exchange, and two of the new carriers will offer plans in the individual market. The total number of plans offered by carriers active on the Exchange will be 211, of which 124 are individual plans and 87 are small group plans. In addition, six multistate plans will be offered.

At its next meeting, the Commission intends to receive updated data relating to pharmaceutical costs and cost-sharing therefor, utilizing information available through the All-Payer Claims Database.

Health Insurance Reform Commission

Delegate Kathy J. Byron, Chair
Frank Munyan, DLS Senior Attorney
804-786-3591 ext. 227
dls.virginia.gov/commissions/hir.htm

Joint Commission on Administrative Rules

August 13, 2015

The Joint Commission on Administrative Rules met on August 13, 2015, in Richmond, with Senator Frank Wagner, chairman, presiding. Senator Wagner welcomed Senator John Cosgrove and Delegate Betsy Carr, who could not be present, as new members of the Joint Commission.

Voter Registration Regulation (1VAC20-40-70) - Department of Elections

Senator Wagner briefly introduced this item, noting that the Department of Elections (the Department) has proposed changes to the state voter registration application form and regulation. The proposed changes were published in the Virginia Register of Regulations and posted on Town Hall, and the public comment period ended August 3, 2015. Senator Wagner asked Edgardo Cortés, Commissioner of the Department of Elections, to provide more specific information.

Commissioner Cortés stated that over the last year and a half, at his direction, the Department has been in the process of reviewing, updating, and improving all forms used by the Department. On the basis of feedback from local registrars, legislators, voter registration groups, and other stakeholders indicating that voters were consistently missing items on the voter registration application, staff prepared proposed revisions to 1VAC20-40-70 and the voter registration application. Commissioner Cortés explained that the goal of the proposed amendments is to reduce denials of applications for simple errors. In response to a question, Commissioner Cortés stated that he would provide data on denials of applications.

Commissioner Cortés gave an overview of the process for the proposed amendments, which included presenting the proposal to the State Board of Elections at a public meeting in May, soliciting public comment through the Virginia Regulatory Town Hall and the Virginia Register of Regulations, and extending the public comment period. Commissioner Cortés stated that in response to the substantive concerns raised in the public comments, James Alcorn, Chairman of the State Board of Elections, has removed the proposed amendments from the agenda for the September meeting of the State Board of Elections. Additional work will be done before the matter is presented to the State Board of Elections, and no changes to the form will occur before the November general election.

At the request of the members, Commissioner Cortés reviewed the changes to the application section by section. The new application adds the statement *Write "None," if no number has ever been issued:* _____ under the space for the applicant to provide the applicant's social security number. Commissioner Cortés advised the members that the new statement has caused confusion and the agency is reviewing it. In response to questions from Delegate Scott Lingamfelter and Senator Cosgrove, Commissioner Cortés stated that the amendment does not contradict or attempt to change the Code of Virginia or the Constitution of Virginia regarding provision of a social security number. An individual

who has been issued a social security number must provide the number to register to vote, and an individual who has never been issued a social security number may so indicate and be registered to vote.

Delegate Bill DeSteph asked why the new form does not include the page with the addresses for all local registrars, which would be helpful for individuals in the military. Commissioner Cortés replied that very few people mail in the form and that most service members use a different form, the Federal Post Card Application. Also, the new form adds a box in Item 4 regarding active duty uniformed services members, qualifying spouses, or dependents to make those individuals aware of the Federal Post Card Application. In response to a question, Commissioner Cortés noted that the Department could go back to attaching the list of addresses.

Delegate DeSteph asked what percentage of individuals who are United States citizens eligible to vote do not have a social security number. Commissioner Cortés did not have that information, but said that most are elderly individuals who were never issued a social security number.

Senator Ryan McDougle expressed concern that the revised affirmation statement in Item 7 is weaker on the new form. Commissioner Cortés responded that the new form and the affirmation statement were reviewed by an assistant attorney general and that the Department believed the statement on the new form was much stronger. Senator McDougle indicated that his concern was changing "swear/affirm" to "understand," which would require a prosecutor to prove intent, and requested that the Department have the form reviewed by a prosecutor.

Delegate Lingamfelter referred to concerns raised by several local registrars that the proposed change regarding the social security number is in contravention of the Code of Virginia or allows omission of important information. Commissioner Cortés replied that none of the proposed changes contravenes the Code of Virginia and acknowledged that the proposal was unartful.

In response to a question from Delegate Roxann Robinson, Commissioner Cortés explained that the Department gathered information from its database regarding the rejection of voter registration forms to use in making changes to the application. The Department is going to extract the data and make it public.

Senator Wagner thanked everyone for their comments and asked if any member of the audience wanted to speak to this matter. As no one came forward, the agenda item was concluded.

Animal Shelter Guidelines - Department of Agriculture and Consumer Services (VDACS)

Senator Wagner introduced this item and invited Tray Adams, McGuireWoods Consulting, appearing on behalf of the Virginia Alliance for Animal Shelters (VAAS), to provide information.

Chapter 492 of the 2015 Acts of Assembly (Senate Bill 1381), amended the definition of "private animal shelter." Mr. Adams explained that it appeared that VDACS was going to issue guidelines to implement the new law and that the guidelines would have been effective July 1, 2015. VAAS had concerns over the content of the guidelines and the process used to develop the guidelines. He noted that VAAS is working with VDACS to establish a more public process and review and that VAAS's position is that it is pleased to continue to work with the agency.

Sam Towell, Deputy Commissioner of Agriculture and Forestry, explained that VDACS chose a guidance document over regulations on the basis of advice from the Office of the Attorney General. The advice was based on the fact that Senate Bill 1381 amended a definition. He acknowledged that there were some "hiccups" in outreach by VDACS, but outreach to all stakeholders was intended. VDACS is

a small agency with authority and responsibility for a wide variety of programs. Resource issues caused this hiccup.

Deputy Commissioner Towell stated that VDACS is contacting various stakeholders. A draft guidance document will be published on the Virginia Regulatory Town Hall with a notice for comment. VDACS will review the comments and consult with the Office of the Attorney General before proceeding.

In response to a question from Senator Wagner, Deputy Commissioner Towell stated that VDACS will seek a legislative change if one is necessary.

Food Establishment Regulations and Breweries - Virginia Department of Health (VDH)

Senator Wagner introduced this item and asked Brett Vassey, Virginia Brewers Guild, to address the Joint Commission. Mr. Vassey reported that in the last four years, breweries have had a 76% growth rate and that the central piece of that rate is offering tasting of beer to the public. Two state agencies are involved with the regulation of breweries—the Virginia Department of Health (VDH) and VDACS. Approximately 10% of breweries have restaurants, which are regulated by VDH. The issue is over the 117 breweries that are only manufacturers; that is, they do not have a restaurant. VDH is inspecting and applying the regulatory requirements for restaurants to some of these breweries. Mr. Vassey stated that VDH has been very helpful and easy to approach. The solution may be clarification that a brewery/manufacturer is not a restaurant and therefore only VDACS would inspect the facility under the manufacturing regulations. Applying restaurant regulations to a brewery/manufacturer would result in, for example, requiring refrigeration of all stored grain and installation of screens on roll-up doors.

Taylor Smack, Blue Mountain Brewery, advised the members that he owns both a production brewery with only a tasting room and a brewery with a restaurant. VDH inspects the restaurant, and VDACS inspects the manufacturing side of his business. He has concerns if a stand-alone brewery would be inspected by VDH as if the brewery were a restaurant.

Kevin Erskine, owner, Coelacanth Brewing Company, explained that his brewery is a production-only facility that will have a tasting room. However, there has been some confusion, as VDH is inspecting his facility as if it were a restaurant and applying the food regulations. In addition, there appears to be confusion among the inspectors, as he is aware of other production-only breweries that do not have to comply with the food regulations.

Tom Lisk, Eckert Seamans, Virginia Restaurant Association (VRA), stated that the VRA supported the recent changes in Virginia law that permitted breweries to have tasting rooms, similar to the rules for wineries. He noted that VDH and VDACS have worked well together for wineries and for a grocery store that has a cafe.

Senator Cosgrove asked Senator Wagner if the preferred approach would be legislation to address this issue instead of an agreement between the two state agencies, as an agreement is subject to change at any time. Senator Wagner replied that an agreement is the preferred choice, provided that it gets the job done. Senator Cosgrove asked that the agencies consider how this issue affects distilleries.

Robert Hicks, Deputy Commissioner for Community Health Services, VDH, stated that VDH and VDACS currently have a memorandum of understanding addressing the roles and responsibilities of each agency regarding wineries. Wineries are a joint responsibility of the two agencies, and no overlap of regulatory activity exists for wineries.

Sandra Adams, Commissioner, VDACS, explained that both VDH and VDACS fall under the federal Food and Drug Administration food regulations. The agencies have had a memorandum of

understanding regarding the administration of the federal regulations for a long time. The memorandum was amended for wineries and could be amended for breweries.

Senator Wagner asked if the memorandum could be amended for breweries and distilleries in the same manner that it was amended for wineries. Deputy Commissioner Hicks answered in the affirmative.

In response to questions about the timeframe for completing the amendment of the memorandum and if the amendment could be retroactive, Deputy Commissioner Hicks replied that completion will be soon and it could be retroactive.

Meeting materials are available at http://dls.virginia.gov/commissions/car.htm?x=mtg.

Joint Commission on Administrative Rules

Senator Frank Wagner, Chair
Karen W. Perrine, DLS Staff Attorney
804-786-3591 ext. 261
dls.virginia.gov/commissions/car.htm

Joint Subcommittee to Evaluate Tax Preferences

September 8, 2015

The Joint Subcommittee to Evaluate Tax Preferences met on September 8, 2015, in Richmond, with Senator Jeff McWaters, chair, presiding. The Joint Subcommittee reviewed sales tax exemptions for transportation services, advertising, heating fuels, and property used in research and development, as well as the income tax deduction for dependent care expenses.

Sales Tax Exemption for Transportation Services

Staff presented a report regarding subdivision 3 of § 58.1-609.5 of the Code of Virginia, which exempts "transportation charges separately stated" from the Virginia retail sales and use tax. The amount charged by the seller for transporting tangible property to the purchaser is not subject to sales tax if the charge is separately itemized on the receipt. Virginia is one of 18 states to exempt such shipping or transportation costs. The Department of Taxation estimates that the exemption accounted for approximately $65.3 million in reduced revenues in fiscal year 2015.

In discussing the exemption, members raised questions about the revenue impact of the exemption as more and more consumers purchase tangible property on the Internet, thus requiring more and more shipping. Because a quorum was not present at the meeting, no vote was taken regarding a recommendation for the exemption, but the sense of the members present was that they would like to further examine the impact of this preference at a future meeting.

Sales Tax Exemption for Advertising

Staff presented a report regarding subdivision 5 of § 58.1-609.6 of the Code of Virginia, which exempts advertising from the Virginia retail sales and use tax. The exemption applies to the creation and placement of advertisements in the media. The majority of states that impose a sales tax exempt these transactions. The Department of Taxation estimates that the exemption accounted for approximately $100.2 million in reduced revenues in fiscal year 2015.

Representatives of the Virginia Association of Broadcasters and NBC12 provided public comment regarding the exemption. The speakers supported the continuation of the exemption in its current form, as broadcasters rely on advertising revenue. Taxing advertising, they argued, would lead to a loss of revenue for the media, which would directly affect broadcasters' ability to provide local news and act as the primary source of news during an emergency. Members questioned the speakers about the revenues and operating margins of local broadcasters. The members present requested more information regarding the operating costs and revenues of local stations before making a recommendation regarding the exemption.

Sales Tax Exemption for Heating Fuels

Staff presented a report regarding subdivision 1 of § 58.1-609.10 of the Code of Virginia, which exempts heating fuels purchased for domestic consumption from the Virginia retail sales and use tax. While most exemptions apply to the collection of both state and local sales and use tax, this particular exemption applies to the collection of the state tax and only applies to the local tax if a locality exempts the purchase by ordinance. Virginia is one of 29 states that provide some sort of sales tax exemption for heating fuels. The Department of Taxation estimates that the exemption accounted for approximately $33.4 million in reduced revenues in fiscal year 2015. Because a quorum was not present at the meeting, no vote was taken regarding a recommendation for the exemption, but the sense of the members present was that they would like to continue the exemption in its current form.

Sales Tax Exemption for Property Used in Research and Development

Staff presented a report regarding subdivision 5 of § 58.1-609.3 of the Code of Virginia, which exempts tangible personal property used directly and exclusively in basic research, or research and development, from the Virginia retail sales and use tax. Virginia is one of 31 states that provide some sort of exemption related to research and development activities, although the scope and breadth of these exemptions vary widely. The Department of Taxation estimates that the exemption accounted for approximately $5.9 million in reduced revenues in fiscal year 2015. Because a quorum was not present at the meeting, no vote was taken regarding a recommendation for the exemption.

Income Tax Deduction for Dependent Care Expenses

Staff presented a report regarding subdivision D 3 of § 58.1-322 of the Code of Virginia, which provides an income tax deduction for expenses for household and dependent care services necessary for gainful employment. The deduction applies only to expenses that qualify for the federal Child and Dependent Care Tax Credit and is equal to the amount of expenses claimed in calculating the federal credit. Such expenses are capped at $3,000 for one qualifying dependent or $6,000 for two or more qualifying dependents. Virginia is one of 25 states that offer some sort of preference related to these expenses, although most such states offer some sort of state tax credit instead of an income tax deduction. The Department of Taxation estimates that the exemption accounted for approximately $30 million in reduced revenues in fiscal year 2015. Because a quorum was not present at the meeting, no vote was taken regarding a recommendation for the exemption, but the sense of the members present was that they would like to continue the exemption in its current form.

Other Business

Senator McWaters noted that the Joint Subcommittee did not currently have a vice-chairman. Delegate Lee Ware indicated his willingness to serve as vice-chairman, but because a quorum of members was not present, no vote could be taken.

Senator McWaters said that he would like to hold another meeting during the 2015 interim focused on the historic rehabilitation tax credits and the coal tax credits.

Joint Subcommittee to Evaluate Tax Preferences

Senator Jeffrey L. McWaters, Chair
David Rosenberg, DLS Senior Attorney
Lisa Wallmeyer, DLS Senior Attorney
804-786-3591 ext. 215 or 223
dls.virginia.gov/commissions/tax.htm

Joint Commission on Technology and Science

August 19, 2015

The Joint Commission on Technology and Science (JCOTS) held its second meeting of the 2015 interim on August 19, 2015, in Richmond, with Delegate Tom Rust, chairman, presiding. Delegate Rust welcomed to the meeting Nelson Moe, the new Chief Information Officer of the Commonwealth. Mr. Moe introduced himself, noted that he was in his eleventh week on the job, and said that he looked forward to working with JCOTS and the General Assembly.

Delegate David Bulova presented HB 2037, which was referred to JCOTS for study by the 2015 Session of the General Assembly. The bill would prohibit motor carriers from using or disclosing a customer's trip data or other personal information, for any purpose other than to provide the requested service. The prohibition would not apply to the use of aggregated data that cannot be linked to any personal information. The bill would apply to all motor carriers, including taxis and limo drivers, but was developed in response to the use of data by transportation network companies (TNCs) such as Uber and Lyft. Delegate Bulova said that while laws enacted by the 2015 Session of the General Assembly regarding TNCs prevent the disclosure of personal information, there are exceptions—the laws do not prohibit the release of personal information if such release is part of the terms of service agreed to by the customer in downloading and using the TNC app, nor do the laws apply to trip data, which does not fall under the definition of personal information.

Representatives of Uber and Lyft said that there are many valid internal uses of the information collected by TNC apps and TNC partners, and how that information is used, including a means to opt out, is clearly disclosed. HB 2037 would prohibit this use, because the bill prohibits not only disclosure but also use of the data. The representatives argued that HB 2037 singles out for prohibition the use of data by one particular industry but ignores the use of customer location information by many apps in other areas (music, weather, etc.).

Senator John Watkins asked if other motor carriers were consulted about HB 2037. He asked staff to follow up with motor carriers to assess the impact of the bill on those industries. Members expressed an interest in limiting the scope of the bill to disclosure, instead of use and disclosure, and Delegate Bulova indicated that such a narrowing was acceptable. Delegate Rust asked staff to review the definition of personal information in the Government Data Collection and Dissemination Practices Act and see if that might be amended to address Delegate Bulova's concerns in lieu of the approach set forth in HB 2037. Discussion of the bill was continued to the October 20 meeting.

Senator Bryce Reeves presented SB 1420, which, along with the identical HB 2336 (Peace), was referred to JCOTS for study by the 2015 Session of the General Assembly. The bills would limit the liability provisions in a solicitation for IT procurement to no more than twice the value of the contract. Senator Reeves said that the purpose of the bills is to establish liability provisions that balance protecting the Commonwealth's interests and encouraging competition and innovation. He said that often the terms and conditions contained in a solicitation require unlimited liability, which makes it impossible for some smaller businesses to bid on the project.

Andrew Lamar, speaking on behalf of the Greater Richmond Technology Council, spoke in favor of SB 1420 and HB 2336. He said that the current liability practices lead to less innovation and higher costs. In order to bid on a contract, a company must accept the terms and conditions in whole (including the liability provisions), or even if a bidder is not required to accept the terms, willingness to accept unlimited liability is considered in scoring of the bids. He said that the National Association of State Chief Information Officers found in a recent study that 30 states place limits on liability. Tennessee, for example, limits liability to twice the value of the contract, but has in place a few reasonable exceptions for criminal activity and intentional torts.

Senator Watkins suggested that a blanket approach to liability would not work because metrics and risk profiles would need to be considered for each project. He said that he would like VITA to be involved in the discussion. Senator Reeves said that he would like JCOTS to help in getting the right people together to discuss the issues and figure out the various tiers of risk that would need to be considered. JCOTS directed staff to put together a work group to discuss these issues and report back at a later meeting.

Staff provided an update on HB 2352 (Marshall, D., 2015) related to broadband and conduit. At the direction of JCOTS at the April meeting, staff convened a work group of interested parties to discuss the bill. While all of the parties applauded the goal of the bill to increase cooperation, communication, and efficiency in facilitating broadband deployment—especially in underserved areas—they were concerned that the bill raised a number of policy, legal, and safety issues. These concerns are outlined in a report submitted to JCOTS. At the recommendation of the work group, JCOTS voted to request that the Broadband Advisory Council, chaired by Delegate Kathy Byron, continue discussions as to how to improve coordination and communication among state and local government and private industry to efficiently deploy broadband capabilities in underserved areas.

Joint Commission on Technology and Science

Delegate Thomas Rust, Chair
Lisa Wallmeyer, Executive Director and DLS Senior Attorney
804-786-3591 ext. 223
dls.virginia.gov/commission/jcots.htm

Joint Meeting of the House and Senate Commerce and Labor Committees' Special Subcommittees on the Clean Power Plan Rule Issued Under § 111(d) of the Clean Air Act

September 21, 2015

In June 2014, the U.S. Environmental Protection Agency (EPA) released its proposed Clean Power Plan (CPP) rules. The statutory authority under which the proposed CPP was issued is § 111(d) of the Clean Air Act (CAA). The CPP provides for the reduction of emissions of carbon dioxide (CO2) from existing generation units (EGUs). The EPA has issued rules limiting CO2 emissions from new EGUs under § 111(b) of the CAA. In 2014, the chairs of the House and Senate Commerce and Labor Committees each established a special subcommittee to examine issues related to the proposed CPP.

The EPA issued the final version of the CPP on August 3, 2015. The final CPP generally provides states with more flexibility in selecting compliance strategies and encourages participation in regional carbon pricing and credit trading arrangements.

The special subcommittees met jointly on September 21, 2015, in Fredericksburg to receive briefings on the final CPP. The meeting was attended by Senator Frank Wagner, who chairs the Senate special subcommittee; Delegate Jackson Miller, who chairs the House special subcommittee; and Delegate Ron Villanueva.

David K. Paylor, Director of the Virginia Department of Environmental Quality (DEQ), identified three major differences between the proposed and final versions of the CPP. First, the final CPP uses a new method in developing state targets. The final CPP uses standard emission rates for coal-fueled and natural gas-fueled EGUs. For coal-fueled plants, the rate is 1,305 lbs CO2/MWh. For natural gas-fueled combined cycle (NGCC) plants, the rate is 771 lbs CO2/MWh. Using these rates and a state's 2012 mix of carbon-emitting electric generation sources, the EPA has set state-specific goals. Virginia's interim goal applicable during 2022–2029 is an emission rate of 1,047 lbs CO2/MWh. The final goal, to be met by 2030, for Virginia is an emission rate of 934 lbs CO2/MWh. Under the proposed CPP, Virginia would have been required to meet a mandatory final goal of 810 lbs CO2/MWh. Moreover, the final CPP no longer includes the provisions in the proposed CPP that derived a state's emission goals from state-specific factors.

The second major change in the final CPP involves the CPP's schedule. Under the final CPP, the compliance period commences in 2022, two years later than the originally proposed date of 2020. While the final CPP requires states to submit an initial plan by September 6, 2016, states may request a two-year extension.

The third major change involves the use of energy efficiency as a Best Source of Emissions Reduction, often referred to as a "building block." While retaining three of the building blocks of the proposed CPP (increased power plant operating efficiency, shifting generation to NGCC EGUs, and increased use of renewable energy), in the final CPP the EPA has eliminated demand-side energy efficiency as a building block. Mr. Paylor described this change as making the CPP a little clearer. In response to a question by Senator Wagner, it was observed that Virginia's coal-fueled EGUs are operating efficiently, and the EPA's estimate that operators can obtain six percent additional efficiency from coal power plants was questioned.

Mr. Paylor identified seven ways in which the final CPP addresses comments filed by DEQ with the EPA:

1. The final CPP's use of national standards reduces the proposed CPP's inequity among the goals set for various states.
2. By reducing differences in state goals not directly tied to a state's level of usage of coal and natural gas, the final CPP reduces any resulting economic disadvantages between Virginia and its neighbors.
3. By dispensing with the proposed CPP's allegedly arbitrary crediting of some clean power generation, the final CPP's treatment of zero-emitting sources will allow credit for new nuclear investments in the future.
4. With regard to renewable energy, the final CPP is based on an updated national assessment of renewable energy potential. The higher rate goal for Virginia in the final CPP of 934 lbs CO2/MWh will lessen the need for a major ramp-up of renewable energy in the near term.
5. By delaying the start of the interim compliance period to 2022 and raising the Commonwealth's interim goal levels above the levels that had been called for in the proposed CPP, the final CPP avoids what was described as a compliance "cliff." Mr. Paylor noted that he was not aware of any provision of the final CPP that requires the immediate shuttering of coal plants in Virginia.
6. The final CPP gives states the option of using both rate and mass limits.
7. The final CPP provides a reliability safety valve that addresses emergency situations. It also includes provisions for optional set-asides to assist single-source assets.

Mr. Paylor explained the variety of compliance options available to states under a mass-based limit or rate-based limit. One aspect of the compliance options is the potential for a state to buy or sell credits with other states, depending on whether a state is under or over its emissions cap. Another aspect of a state's selection of the optimal compliance option is the extent to which it will operate with the new source limits imposed under § 111(b) of the CAA to provide the opportunity for a state's total generation capacity to increase in future years.

In response to a question from Delegate Miller, Mr. Paylor expressed hope that the cap is achievable and noted that it is not clear whether Virginia would be in a position to buy or sell carbon emission credits in a regional market. He noted that no decision has been made yet as to whether Virginia will select a rate-based limit or a mass-based limit. With regard to whether Virginia's coal-fueled EGUs meet the standard emission rate limit of 1,305 lbs CO2/MWh, it appears that they will not, and therefore the state plan will need to meet its goal by supplementing their use with power from zero-emitting renewable sources. With regard to NGCC EGUs, Dan Weekley of Dominion stated that the utility's most efficient plant of this type is rated at 800 lbs CO2/MWh, which is close to the limit for such plants of 771 lbs CO2/MWh.

Mr. Paylor testified that DEQ is working to meet the CPP's compliance timeline by conducting regional listening sessions and conducting an informal public comment period. The CPP requires states to provide for public participation in developing their state implementation plan (SIP). The CPP's environmental justice provisions require states to have meaningful engagement with vulnerable communities during the plan development process. He expressed hope that DEQ would be able to share a proposed SIP by the spring of 2016.

Commissioner Tony Clark of the Federal Energy Regulatory Commission (FERC) observed that the CPP places the burden of dealing with its challenges, such as infrastructure siting disputes, and any negative outcomes, such as reductions in reliability or affordability, on state utility regulatory agencies such as the State Corporation Commission and the FERC rather than with the environmental agencies that adopted the regulations. Commissioner Clark opened his remarks by delineating the FERC's areas of jurisdiction, which include wholesale electric power sales and rates, interstate gas pipeline siting, reliability of the bulk power system, and allocation of transmission costs, from areas in which state regulators have jurisdiction under the joint federal-state system of implementing energy policy.

The FERC has proposed a regulatory mechanism to deal with curtailments such as occurred last winter when extreme cold resulted in constraints on deliverability of natural gas. Under this mechanism, providers of a capacity resource are required to have the capacity available year-round and will face penalties if the contracted-for capacity is not available when called upon. Such a mechanism will result in greater reliability but at additional costs to customers through higher wholesale power rates.

With regard to the CPP, the FERC has held conferences focusing on the issue of system reliability. The FERC urged the EPA to deal with three issues in developing the final CPP. First, the timeline for implementation should provide time to develop the infrastructure, including electric transmission lines and natural gas pipelines, that will be required to develop the EGUs required to meet the program's goals.

The second issue the FERC urged the EPA to address in the final CPP is a reliability assurance mechanism. Under this mechanism, a jurisdiction submitting an implementation plan will be required to demonstrate both that it consulted with the state's regional transmission organization (RTO) and that the RTO found that the plan would not detrimentally affect system reliability.

The third issue that the EPA was asked to address is a reliability safety valve (RSV). The RSV gives states a 90-day period to exceed carbon limits during emergencies. Commissioner Clark observed that the RSV included in the final CPP is similar to the safety valve provision that the EPA included in its mercury and air toxics standards (MATS) rule. In Commissioner Clark's view, the RSV is not likely to be used where a state has a good utility planning and oversight system in place.

With the EPA's adoption of the final CPP, Commissioner Clark noted that it is up to states to develop a SIP. If a state declines to submit a SIP, it will be required to comply with a federal implementation plan (FIP) imposed by the EPA. Of the states that develop a SIP, some will meet the CPP's emission limits by buying credits from other jurisdictions. Under this market-based approach, utilities that pay for the credits will pass their cost along to ratepayers. Commissioner Clark cautioned that if every state goes its own path without regional cooperation, a balkanization of the electrical grid will result. In his view, a balkanized grid is an expensive grid.

In response to a question posed by Senator Wagner involving the costs of compliance, Commissioner Clark noted that states that have already implemented elements of programs similar to those of the CPP, including California, New England states, and states in the Northeast, have electricity rates that are much higher than the rates charged in Virginia. Asked about the effect of the U.S. Supreme Court's recent decision in *Michigan v. Environmental Protection Agency* involving the EPA's consideration of the costs of its MATS regulations, Commissioner Clark noted that ideally the deadlines in the CPP would be suspended until courts have resolved any legal challenges. With regards to the MATS rules, many utilities made substantial investments to comply with a rule that was later found to have been improperly adopted. Commissioner Clark noted that the legal challenges to the CPP being discussed by its opponents tend to be directed at the broader issue of whether the CPP is being promulgated in

accordance with a proper interpretation of § 111(d) of the CAA rather than at the more limited issue of the agency's conduct of a cost-benefit analysis.

Commissioner Clark asked members of the subcommittees to focus on the need for infrastructure development. If the CPP is to work, a great deal of infrastructure, including electrical transmission lines and gas pipelines, will be needed, and such projects often take years to obtain required approvals. Renewable energy facilities work better when built over a wide geographical area, in order to take advantage of variances in wind and solar conditions, but doing so requires extending the power transmission grid to interconnect the facilities. He cautioned states not to end up in the situation that occurred in New England when states pushed to install renewable facilities before an adequate infrastructure was in place. If an adequate infrastructure is not built, higher wholesale power rates will result.

Commissioner Clark wrapped up his comments by responding to Senator Wagner's query about the effect of the CPP on system reliability. The Commissioner noted that it is difficult to separate the issues of affordability and reliability. Blackouts are not likely to occur in this country because of its excellent grid and planners. However, ensuring reliability comes at a cost. To the extent that system reliability is ensured by letting prices rise to whatever level is needed in order to attract investment, the affordability of electric power will be affected.

Michael Kormos, Executive Vice President-Operations of PJM Interconnection LLC (PJM), provided an analysis of the CPP. PJM serves as the RTO for Virginia and 12 other states and the District of Columbia. In recent years the electric power sector has experienced a sea change as the amount of installed capacity provided by natural gas–fueled EGUs has surpassed the capacity provided by coal-fueled EGUs as the region's largest source of capacity. This change in position was attributable both to the falling cost of natural gas and to coal plant closures in response to the MATS rules. Over the past decade, emissions of CO2 in the PJM region have fallen from almost 1,300 lbs CO2/MWh to approximately 1,100 lbs CO2/MWh, but the rate of decline has leveled off.

Mr. Kormos reported that PJM is assessing the potential impacts of the CPP on states in its region. Modeling suggests that lower CO2 targets and less zero-emitting resources will result in higher CO2 prices. Mr. Kormos cited modeling indicating that lower CO2 limits coupled with less zero-emitting resources will result in more at-risk generation. Mr. Kormos also shared data concluding that the amount of generation determined to be "at risk," defined as having a revenue requirement that is greater than 0.5 net cost of new entry for a combustion turbine, can be much less when there is regional compliance than when compliance is done on a state-by-state basis. Mr. Kormos contended that regional cooperation leads to an increase in power supply options. Compliance through a patchwork of individual state programs results in losses in efficiency, which may result in more plant retirements. In conclusion, Mr. Kormos described the final CPP's two-year delay in the start of the compliance period and its openness to trading programs as positive changes.

Senator Wagner asked representatives of Virginia's electric utilities to share their estimates of the costs of compliance with the final CPP. Scott Weaver of American Electric Power (AEP) noted that until a SIP or FIP has been proposed the utility will not be able to quantify compliance costs. Mr. Weekley noted that Dominion's four EGUs most affected by the CPP would have $2.1 billion in stranded costs if they were required to shut down this year. In this context, stranded costs generally refers to the costs incurred by the utility in developing the EGUs that the utility would not be able to recoup over the facility's expected life as a result of their premature shuttering. Mr. Weekley noted that the estimate of the stranded cost estimate associated with these four EGUs will shrink by between $90 million and $100

million for each year that the facilities remain operating. When asked if the final CPP will require these four EGUs to be shuttered, Mr. Weekley responded that the answer depends on the provisions of the SIP. He noted that mass-based limits do not account for load growth, and Dominion's integrated resource plan assumes an annual load growth of between 1.3 and 1.4 percent. Mr. Weaver of AEP and Jackson Reason of Virginia's electric cooperatives also shared their load growth estimates.

Senator Wagner indicated that he would like the special subcommittees to meet again in January 2016 prior to the start of the legislative session for the purpose of receiving updated analyses of the final CPP.

Special Subcommittees on the Clean Power Plan Rule Issued Under § 111(d) of the Clean Air Act

Senator Frank Wagner, Chair, Senate special subcommittee
Delegate Jackson Miller, Chair, House special subcommittee
Frank Munyan, DLS Senior Attorney
804-786-3591 ext. 227

State Water Commission

July 22, 2015

The State Water Commission (the Commission) met on July 22, 2015, in Richmond, with Delegate Thomas Wright, chair, presiding. Chairman Wright opened the meeting with a summary of the efforts of the Commission in developing policies, in coordination with the Department of Environmental Quality (DEQ), that ensure the sustainability of the groundwater resources in Eastern Virginia. Chairman Wright noted that, in response to the current groundwater situation, DEQ has adopted a short-term strategy that calls for significant reductions in the amount of groundwater used by the largest permitted withdrawers. However, he emphasized the need to develop longer-term strategies that will stabilize the situation. One such initiative, HB 1924 (Chapter 613, 2015), introduced by Delegate Keith Hodges, established the Eastern Virginia Groundwater Management Advisory Committee (the Advisory Committee). The Advisory Committee is charged with assisting DEQ in developing and implementing a long-term strategy for managing groundwater in the Eastern Virginia Groundwater Management Area. The law directs DEQ to report the results of its examination and any specific recommendations to the Commission.

Presentation: Eastern Virginia Groundwater Management Advisory Committee

Delegate Keith Hodges, Patron of HB 1924 (Chapter 613, 2015)

Delegate Hodges discussed his rationale for introducing legislation establishing the Eastern Virginia Groundwater Management Advisory Committee. The law directs the Advisory Committee to assist DEQ in developing, revising, and implementing a management strategy for groundwater in the Eastern Virginia Groundwater Management Area. He stressed that water is a finite resource that drives the economy; therefore, it is important that decision makers obtain as much information as possible. He noted that industry considers the availability of water in deciding whether to establish an operation in a particular location.

Virginia's coastal population obtains 90 percent of its water supply from the Potomac Aquifer. Delegate Hodges is concerned that this water supply be properly managed to maintain its sustainability, but

cautioned that it will take "years to develop and implement solutions" to protect the aquifers in the region. The urgency of the matter led him to introduce legislation to establish an expert advisory group. The legislation requires the Advisory Committee to report its findings to the State Water Commission and the Director of DEQ by August 1, 2017, and the Director of DEQ is requested to submit a report to the Governor, the State Water Commission, the House of Delegates and Senate committees having oversight, and the Joint Legislative Audit and Review Commission by November 1, 2017.

Presentation: Groundwater Sustainability: Strategies for Managing Groundwater in Eastern Virginia

David Paylor, Director of the Department of Environmental Quality

Mr. Paylor began his presentation with a review of progress in the development of strategies for managing groundwater since the Commission's last meeting. The agency's plan includes a short-term strategy of reducing withdrawals by 57 percent, thus stabilizing "head loss." He pointed out that 14 facilities are responsible for 87 percent of the groundwater being withdrawn. In its review of the possible reductions, DEQ identified three of the largest users for immediate reductions and 11 for potential reductions. Currently, meetings are taking place with the largest users. The three largest users have agreed to reduce their withdrawals, and DEQ is negotiating possible reductions with the others.

Mr. Paylor characterized the discussions as very encouraging and believes they will result in possible solutions. The issues being discussed include the timing of reductions. The agency is working with permittees to establish a schedule that meets their business needs and enables economic development while reducing withdrawals.

During the 2015 Session, Delegate David Bulova introduced HB 1871 (Chapter 465, 2015), which required the registration of new wells drilled in a groundwater management area and outlined data integration expectations for DEQ and the Virginia Department of Health (VDH). This legislation will result in a more comprehensive groundwater database by (i) creating a single joint well construction form and a single well construction data set for both agencies and (ii) developing an online well registration system. The information collected will be shared by both agencies. Training sessions explaining the process for registration of wells will be conducted using certified water well providers. An effort will also be made to retrieve information on private wells that have been stored in paper files but previously not integrated into the database. Federal funding is being sought in order to accelerate the retrieval of this data.

In addition, there is a joint effort among the Hampton Roads Planning District Commission, NASA, the U.S. Geological Survey (USGS), and the U.S. Navy to monitor land subsidence in the coastal plain. DEQ is currently evaluating the cost of reconditioning two DEQ/USGS land subsidence monitors. In a related development, DEQ has contracted with USGS to develop a chloride (salt water intrusion) monitoring network and strategy. It is anticipated that by 2016, DEQ will be able to assess what is needed to develop and implement such a network.

Mr. Paylor concluded his remarks by informing the Commission that 24 individuals have been selected as members of the Advisory Committee. He characterized the members as "high-level decision-makers." He anticipates that these individuals will be assisted by technical experts. The initial meeting of the Advisory Committee will occur on August 18, 2015, with a final report submitted to the Commission by November 1, 2017. The panel will examine how the state manages water and what strategies most effectively ensure the sustainability of groundwater.

Presentation: Findings of the State Water Resources Plan

Scott Kudlas, Director, Office of Water Supply, Department of Environmental Quality

Mr. Kudlas began his presentation with a brief history of water planning in the Commonwealth. There was a very active planning effort in the 1940s–1960s by what was known as the Virginia Conservation Commission, the predecessor of the State Water Control Board (SWCB). The Virginia Conservation Commission issued a number of annual and semiannual reports on the status of water resources, measuring volumes of water and providing some information on groundwater. Under the SWCB, the first watershed plans were created as a result of the extensive drought in the 1960s. The watershed program was eliminated in the late 1980s due to budget cuts. An active planning effort commenced again during the drought period of 1998–2002. The drought led to recognition by DEQ and the Commission of the need for better planning in order to respond to fluctuations in water resources. Legislation was developed and supported by the Commission and DEQ to require the development and submission of local and regional water supply plans, with data in these plans organized into the proposed State Water Resources Plan.

Mr. Kudlas discussed a number of caveats regarding the plan. The plan is an effort not just to report how much water "is out there" but also to examine projected local needs and what that means for our statutorily protected "beneficial uses." A second caveat or concern is that no hard and fast conclusion should be drawn on future availability of our water resources. Rather, the data represents "potential future outcomes." It is important to realize that the plan is not a regulatory document but a planning document intended to provide information that only the state could develop. It is seen by Mr. Kudlas as an essential element in fostering an ongoing dialogue with localities aimed at assisting the localities in planning for their future needs, by having the data necessary to make informed decisions. The goal of the state plan is to identify potential risks to beneficial uses.

He cautioned that there are still challenges that must be addressed and that future management decisions may require the development of new tools that will be useful in analyzing impacts to off-stream uses, water quality, aquatic life uses, and high use watersheds. It will require greater coordination and different management approaches during periods of low flow. The state plan identifies the following challenges:

- Understanding the impact of water withdrawals that do not currently require a permit;
- Quantifying current and future risks to groundwater availability outside the current groundwater management areas;
- Recognizing that more water withdrawals have occurred than have been reported to DEQ;
- Understanding the impact of consumption use on water supply; and
- Promoting increased water efficiency to reduce long-term and short-term demand.

Any effective plan will have to take into account such factors as (i) infrastructure deficiencies that can result in the loss of up to 50 percent of treated water; (ii) sea level rise, changes in precipitation patterns, and land subsidence; (iii) source water protection; (iv) conflict resolution; and (v) public education and outreach.

A draft of the State Water Resources Plan was posted on the DEQ website for public comment. The comment period closed May 8, with the agency having received 31 comments. Mr. Kudlas stated that the comments were generally supportive "but reflect the uncertainties associated with doing something new." Comments reflected recognition that such a planning effort is a complex task, and those

submitting the local/regional plans acknowledged that the creation of the state plan is an important tool in water supply planning. There is still some uncertainty as to the intent of the plan and the role of state government and localities in carrying out the plan. The state has awarded $400,000 in grants to assist localities in developing their local/regional plans; however, localities have indicated the need for continued financial support.

Citing sections of the Code of Virginia, Mr. Kudlas emphasized that localities have the lead role in providing water supply while the state plays a supportive role. The VDH mission is to protect public health by ensuring that all people in Virginia have access to an adequate supply of affordable, safe drinking water that meets federal and state drinking water standards. DEQ is charged with managing programs that ensure that (i) water quality standards are met (monitoring) and (ii) instream flow is available over the long term for both instream and off-stream uses (planning and permitting).

In conclusion, Mr. Kudlas highlighted several instances in which a locality's plan has resulted in the development of strategies essential in maintaining its water supply. For instance, Rockingham County's water supply plan indicates that the county will face a possible deficit of 1.272 million gallons per day by 2020. Its plan recommends certain alternative strategies to address the deficit, such as the development of new wells and treatment facilities, plant upgrades to provide additional supply and treatment capacity, and the development of water purchase agreements with neighboring jurisdictions. In Nottoway County, the population and demands are projected to increase through 2040. However, existing water sources are expected to meet projected demands. Henrico County's population and demands also are projected to increase through 2040; in this case, as the county was developing its plan it was involved in the construction of a reservoir that will provide storage for public water supply projects.

While all of the plans submitted to DEQ were found to be in compliance with the agency's guidance document, DEQ will periodically analyze the data to ensure that the latest information has been included. The agency plans to target outreach efforts to localities and withdrawers in high-risk areas and work with all localities and withdrawers to improve (i) the cumulative impact analysis and (ii) coordination during critical periods.

Presentation: Proposed Draft Regulations for Hydraulic Fracturing

Michael Skiffington, Program Support Manager, Department of Mines, Minerals and Energy

Mr. Skiffington began his presentation with a description of the Virginia Department of Mines, Minerals and Energy's (DMME) organizational structure and the agency's mission, "to enhance the development and conservation of energy and mineral resources in a safe and environmentally sound manner to support a more productive economy." He turned to the subject of hydraulic fracturing, the use of pressurized liquids or gases, such as nitrogen, to stimulate or fracture rock formations to release natural gas or oil. The composition and volume of fluids used depends on many geological factors. Sand is often pumped in with fluids to help prop open the fractures in the rock. According to Mr. Skiffington, fracturing, along with horizontal drilling, has made previously inaccessible natural gas and petroleum resources economically producible. Over the past decade, the application of such technologies has greatly expanded U.S. oil and natural gas production. In Virginia, "fracking" has been utilized since the 1960s. In Southwest Virginia, over 8,000 wells have operated using this technique. Mr. Skiffington informed the Commission that there has been no documented instance in Virginia of surface or groundwater degradation as a result of fracking. The average amount of water needed to frack a well in Virginia is 0–300,000 gallons. By contrast, to frack a well in the Marcellus Shale regions will require up to 4–5 million gallons of water. .Operators increasingly are utilizing nitrogen-based fuel to frack wells.

The USGS estimated that there is 1.06 trillion cubic feet of natural gas in the Taylorsville Basin. That is about 2.5 times greater than Virginia's total annual consumption of natural gas. By comparison, the Marcellus Shale in Pennsylvania, New York, and West Virginia is estimated to contain 410 trillion cubic feet of natural gas.

Mr. Skiffington provided the Commission with an update of the oil and gas regulations. A comprehensive rewrite of the regulations began in 2007 and was completed in 2013. In the fall of 2013, DMME initiated a new regulatory action to review the requirements for oil and gas drilling. The review included an analysis of (i) chemical disclosure requirements, (ii) selected industry practices, and (iii) whether additional requirements are necessary for different regions of the Commonwealth. A notice of regulatory action was published on January 13, 2014. The agency received over 200 comments during the 30-day comment period. The comments supported greater disclosure of the ingredients used in the fracking process.

Following the Notice of Intended Regulatory Action (NOIRA), DMME established a regulatory advisory panel (RAP) to assist in reviewing regulations. The panel was composed of a variety of stakeholders representing the environmental community, state agencies, local government, and industry. It held six meetings, all of which were open to the public. The panel reached consensus on 14 recommendations. Thirteen of the 14 recommendations have been incorporated into the draft proposed regulations.

The RAP's recommendations included:

- Disclosure of ingredients used in fracking;
- Use of the website FracFocus to facilitate disclosure;
- Establishment of a separate state registry containing Virginia data that has been included in the national FracFocus website;
- Disclosure of ingredients before a well is fracked; currently, disclosure occurs upon the completion of drilling;
- Submission of information classified as trade secrets;
- Expansion of the groundwater testing radius to 1/4 mile;
- Requirement for one post-completion groundwater monitoring test;
- Allowance for a second test if exceedances are detected;
- Requirement for pressure testing of production casing;
- Requirement for enclosure of temporary wastewater storage pits; and
- Requirement for certification of compliance with local land use ordinances.

The draft regulations are currently under review by the Governor's office. Upon the Governor's approval and subsequent publication, a 60-day comment period will commence. Mr. Skiffington anticipates that at least one public hearing will be held during this period. Following the comment period, DMME will review the comments and submit the final regulations for review by the executive branch. He indicated that the regulations will not become final for 12 to 18 months.

Next Meeting

It is anticipated that the Commission will hold another meeting after the November election at which time the Commission will focus on the various strategies that localities are employing to ensure the sustainability of their surface waters and groundwater, including reuse, desalination, aquifer storage, and conservation.

State Water Commission

Delegate Thomas C. Wright, Jr., Chair
Martin G. Farber, DLS Senior Research Associate
804-786-3591 ext. 230
dls.virginia.gov/commissions/swc.htm

World War II 75th Anniversary Commemoration Commission

September 8, 2015

The World War II 75th Anniversary Commemoration Commission (the Commission) met in Richmond on September 8, 2015, with Delegate M. Kirkland Cox, chair, presiding.

Reflections on the 50th Anniversary of World War II

Brigadier General (USA, Ret.) John W. Mountcastle, Ph.D.

General Mountcastle offered reflections on World War II, the deadliest and most significant event of the twentieth century, and subsequent commemorations of the war. By the war's end, 50 nations were involved in the conflict. At least 60 million people, and possibly as many as 80 million, died as a result of the war. As many as 25 million died in combat or in prisoner-of-war camps. The Japanese attack on Pearl Harbor on December 7, 1941, with great loss of men and matériel, drew the United States into the conflict on two fronts. The goal of America's war effort in the European theatre involved planning and preparations for the D-Day invasion of German-occupied Europe at Normandy, the massive Allied operation directed by General Dwight D. Eisenhower. General Mountcastle noted that more than half of the casualties of the first day of the Normandy invasion were American.

Although 855,000 WWII veterans are still living, their numbers are falling by approximately 492 per day. Commemorations of WWII offer opportunities to say thank you, while we can, to aging veterans of the conflict for their courage and sacrifice.

During the 50th anniversary commemoration of the war, from 1990 to 1995, approximately 6,000 local committees were dedicated to commemorative activities. Brochures were produced about military campaigns, the Army Nurse Corps, etc. D-Day commemorations have taken place in Normandy every 10 years with the participation of American veterans, whose numbers are dwindling. A limited number of veterans were present, for example, at the 70th anniversary of the Normandy landings in 2014 and of V-J Day this summer.

General Mountcastle described veterans of World War II as amazing men and women to whom we owe everlasting thanks. He expressed the hope that for the 75th anniversary we will be able to honor and recognize them appropriately.

Video: "Soaring Valor: Gary Sinise Brings World War II Veterans to National Museum"

The video "Soaring Valor: Gary Sinise Brings World War II Veterans to National Museum" was shown. Chairman Cox noted that it is full of ideas to inspire our events and make them even more special and asked members to make note of particular ideas that resonate with them.

Staff Updates

Cheryl Jackson, Executive Director

1. Logo and website

Ms. Jackson introduced Rusty Nix, HistoryMobile tour manager, who used to work at the National D-Day Memorial in Bedford and has been providing assistance with logo and website design. Ms. Jackson and Mr. Nix submitted concepts for the logo and website for consideration. Chairman Cox and members praised staff for their quick work and invited input from members. It was noted that the website will evolve and grow and that it allows users to upload pictures of themselves or family members who fought in the war.

The motion to approve the concepts for the logo and website was approved unanimously.

2. Economic impact of sesquicentennial events

Ms. Jackson presented highlights of the recent Chmura Economics & Analytics analysis of the impact of sesquicentennial events. The study estimated the total economic impact of the events at $290.3 million. The state received approximately $8.4 million in tax revenue. The Virginia Sesquicentennial of the American Civil War Commission's Signature Conference series, which attracted 6,254 attendees, had a total economic impact of $3.7 million. Forty-one percent of conference attendees were local residents who traveled 50 miles or less to attend, 43 percent were from Virginia but traveled more than 50 miles to attend, and 16 percent of conference attendees came from out of state. The Signature Conference series may provide a useful model for events marking the 75th anniversary of World War II.

3. Feedback from discussions and review of recommendations

Ms. Jackson summarized feedback from recent discussions and meetings regarding the Commission:

a. Hold a statewide commemoration to involve museums, historic sites, colleges and universities, and localities across the state (commemorative communities). Localities would apply for permission to use the Commission's logo.

b. Record stories and scan documents, following the model of the Civil War 150 Legacy Project and videos of veterans recorded by the Virginia War Memorial.

c. Rather than staging a single event in 2016, hold events over the entire four-year period to commemorate World War II milestones.

d. Identify a key scholar or military leader, etc., as the voice of the commemoration.

After talking with a number of stakeholders, consensus for the first major event is for December 8, 2016, in conjunction with the 75th anniversary of Pearl Harbor and the U.S. declaration of war. Holding the reunion event on that date both avoids conflict with major events that will be occurring December 7 at the World War II Memorial on the National Mall and allows invitees and attendees to extend their visit and take part in both events. Members stressed that it is important that it be a large-scale event with speakers who will draw a crowd.

Staff recommends using the Robins Center at the University of Richmond (UR) for the event. Staff and logistics of the Robins Center are excellent, and ground-level entry and other features pose fewer accessibility problems than at other sites. The event will begin with an Honor Parade, veterans will receive a special commemorative coin, and there will be opportunity for digitization and videotaping of veterans' stories.

General Mountcastle expressed the hope that the December 8 event do more than duplicate Pearl Harbor commemorations taking place December 7. Rather than simply remembering the attack, December 8 would be a more inclusive event because the whole nation went to war that day. Delegate O'Bannon asked whether the commemorative event can be tied to Richmond, where a huge munitions plant was located during the war. In response to questions, Ms. Jackson noted that the event would be planned initially for 2,000 participants, but can easily be scaled up or down, depending on registration. Veterans would be seated on the ground level, and the concourse level would be open for displays, oral history and archiving stations, etc. The event will be free and open to the public. Lunch will be provided for veterans and one guest.

Executive Director Jon Hatfield responded that staff of the Virginia War Memorial would be happy to work with the Commission. Delegate Simon added that the World War II commemoration also presents an opportunity to collect first-person accounts of the Holocaust; for that, we could work with the Virginia Holocaust Museum.

The motion that the event proceed as outlined was approved unanimously.

4. Recommendations for Advisory Council

Ms. Jackson reviewed ideas for membership on the proposed Advisory Council, which will hold its first meeting before the end of the year to bring together experts and stakeholders to further the work of the Commission.

The motion to approve the recommendation regarding the Advisory Council was approved unanimously.

World War II 75th Anniversary Commemoration Commission

Delegate M. Kirkland Cox, Chair
Cheryl Jackson, Executive Director
804-786-3591 ext. 276
dls.virginia.gov/ww2.html

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/calendar.asp

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 October through December 2015

October 19	9:30 a.m.	House Committee on Appropriations	9th Floor, GAB
	10 a.m.	Dr. Martin Luther King, Jr. Memorial Commission and Emancipation Proclamation and Freedom Monument Work Group	House Room D, GAB
October 20	10 a.m.	Joint Commission on Technology and Science (JCOTS) Cybersecurity Advisory Committee	3rd Floor East Conference Room, GAB
	10 a.m.	Virginia Commission on Youth	House Room C, GAB
	1 p.m.	Joint Commission on Technology and Science (JCOTS)	Meeting Cancelled
	1 p.m.	Virginia Housing Commission Affordable Housing, Real Estate Law, and Mortgages Work Group	House Room C, GAB
October 22	9:30 a.m.	Senate Committee on Finance	10th Floor Conference Room, GAB
October 27	10 a.m.	Virginia State Crime Commission	Senate Room A, GAB
	2 p.m.	Commemorative Commission to Honor the Contributions of the Women in Virginia	Senate Room B, GAB
November 3	2 p.m.	Department of Mines, Minerals and Energy Public Hearing: Gas and Oil Regulation	House Room 3, The Capitol
November 4	10 a.m.	Joint Commission on Health Care	Senate Room A, GAB
November 5	10 a.m.	Virginia Housing Commission	House Room C, GAB
	1 p.m.	Broadband Advisory Council	TBA

November 9	10 a.m.	Joint Legislative Audit and Review Commission (JLARC)	Senate Room A, GAB
	1 p.m.	Joint Subcommittee to Formulate Recommendations to Address Recurrent Flooding	House Room C, GAB
November 16	TBA	House Committee on Appropriations - Committee Retreat in Northern Virginia	Westfields Marriott Washington Dulles, 14750 Conference Center Drive, Chantilly
	10 a.m.	Virginia Code Commission	6th Floor Speaker's Conference Room, GAB
November 17	TBA	House Committee on Appropriations - Committee Retreat in Northern Virginia	Westfields Marriott Washington Dulles, 14750 Conference Center Drive, Chantilly
November 18	TBA	House Committee on Appropriations - Committee Retreat in Northern Virginia	Westfields Marriott Washington Dulles, 14750 Conference Center Drive, Chantilly
	10 a.m.	Joint Commission on Technology and Science (JCOTS) Cybersecurity Advisory Committee	3rd Floor East Conference Room, GAB
	10 a.m.	Virginia Freedom of Information Advisory Council	House Room C, GAB
	1 p.m.	Joint Commission on Technology and Science (JCOTS)	House Room D, GAB
	1 p.m.	Virginia Military Advisory Council	Joint Base Langley-Ft Eustis, Langley Club, 128 Benedict, Langley Air Force Base
November 19	TBA	Senate Committee on Finance - Annual Meeting	TBA; Portsmouth
November 20	TBA	Senate Committee on Finance - Annual Meeting	TBA; Portsmouth
December 3	10 a.m.	Virginia State Crime Commission	Senate Room A, GAB
December 8	10 a.m.	Virginia Commission on Youth	House Room C, GAB
December 10	10 a.m.	Virginia Conflict of Interest and Ethics Advisory Council	Senate Room B, GAB
December 11	9 a.m.	Joint Meeting of the House Judicial Panel and Senate Committee for Courts of Justice - Judicial Interviews	House Room C, GAB
December 14	10 a.m.	Joint Legislative Audit and Review Commission (JLARC)	Senate Room A, GAB

December 16	10 a.m.	Joint Meeting of the House and Senate Committees on Commerce and Labor	State Corporation Commission, Courtroom C, Tyler Building, 1300 East Main Street, Richmond
December 17	9:30 a.m.	Joint Meeting of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance	House Room D, GAB
	1 p.m.	Virginia Housing Commission	House Room C, GAB

GAB: General Assembly Building, Capitol Square, Richmond

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

Virginia Law Portal Search Features

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.

Each publication is a database of the Virginia Law Portal. Each database can be searched independently and all databases can be searched collectively. For example, searching for *special conservator of the peace* finds 18 results when searching only the Code of Virginia but finds additional references in the authorities, charters, and uncodified acts databases and the Virginia Administrative Code after selecting *All* from the search dropdown menu. Using quotation marks around this search phrase example further narrows the search results in the Code of Virginia to 10 results.

Results for searches of the Code of Virginia and the Virginia Administrative Code are sorted by relevance. To list the results by Code section or VAC section order, choose *Section order* from the dropdown menu located in the top right portion of a search result.

The *section look up* search box on the left side of the Code of Virginia provides a direct search for an individual Code section and the *VAC# look up* search box on the left side of the Virginia Administrative Code database provides a direct search for a regulation section.

When using these *look up* search boxes, enter a title number to go straight to the table of contents of a particular title. For example, enter 18.2 in the Code of Virginia *section look up* box and the table of contents for Title 18.2, Crimes and Offenses Generally, appears. Enter 12 in the Virginia Administrative Code *VAC# look up* box and Title 12, Health, appears.