

2003 GENERAL ASSEMBLY SESSION

Governor's Amendments and Vetoes



The Governor has recommended amendments to 87 bills passed by the 2003 General Assembly and has vetoed 4 others. The staff of the Division of Legislative Services prepared the following summaries to assist members of the General Assembly in their deliberations during the April 2 Reconvened Session. The summaries, arranged in numerical order by bill number, highlight the major impact of the Governor's recommendations on each bill. I hope you will find the information useful.

— E. M. Miller, Jr., Director

Governor's Amendments

HB 1385. *Motor vehicle headlights, tail lights, brake lights, and license plate illumination.* Amendment requires that every motorcycle that is registered in the Commonwealth and operated on the highways be equipped with at least one brake light of a type approved by the Superintendent of State Police.

HB 1400. *Budget Bill.* Summary of amendments is available from money committee staffs.

HB 1402. *Parental consent for abortion.* Strikes the requirement for the judge who authorizes a minor's abortion based on her best interests to condition the order on the physician's giving notice to an authorized person. The amend-

ments also strike the requirement for the written statement from an authorized person consenting to a minor's abortion to be notarized and provide language revisions to the requirement for the written authorization for a minor's abortion.

HB 1430. *Laser speed determination devices.* Technical/editorial changes.

HB 1459. *Erosion and sediment control.* Clarifies that the person responsible for carrying out an erosion and sediment control plan is subject to the penalties provided in the article.

HB 1541. *Partial birth infanticide.* Broadens the health exception to include prevention of "grievous injury to [the mother's] health" and defines "grievous injury" as "(i) a severely debilitating disease or impairment, or (ii) an inability to

provide necessary treatment for a life-threatening condition." The amendments also delineate that the health exception is based on "the physician's reasonable medical judgment."

HB 1542. *Campaign finance disclosure; account to comply; federal requirements.* The bill permits a candidate to maintain a separate account from his campaign account to demonstrate compliance with federal law requirements such as contribution limits and prohibitions against corporate donations in order to allow federal candidates and officeholders to support state and local candidates and establish their compliance with federal law restrictions on campaign contributions. The Governor's amendment allows funds to be transferred to an interest-bearing account so long as the transferred funds and

interest are returned to the compliance account.

HB 1545. *Release of procurement records under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002.* The amendments require bargaining for all phases or aspects of the comprehensive agreement to be completed prior to the required disclosure of procurement documents

HB 1590. *Notice of times and locations for registration.* The amendment adds to the exceptions to requirements for advance notice of registration those locations where mail registration applications are available but no person authorized to receive voter registration applications is present to receive them. This conforms HB 1590 with changes to SB 1107.

HB 1600. *Budget Bill; money diverted from Transportation Trust Fund and Highway Maintenance and Operating Fund.* Amendments (i) relieve the Governor of the duty to propose a method of repaying the funds for any moneys diverted from the funds if such diversion was not proposed by the Governor and (ii) impose the same duty on the General Assembly to set forth a plan for repayment in any amendment to the Budget Bill proposed by the General Assembly that proposes a diversion of moneys from such funds.

HB 1641. *Commercial vehicles stopped on highway roadways or shoulders.* Exempts tow

trucks, road or utility construction/maintenance vehicles, and other vehicles in work zones protected by flagmen or traffic channeling devices from the provisions of the bill.

HB 1652. *Direct shipment of wine.* Removes the qualification that a retail licensee who desires to be a wine or beer shipper only be those with off-premises licenses; removes the language from the outside of any shipped wine or beer that the package "contains alcoholic beverages", but maintains the notice that someone 21 years of age or older must sign for the package; and allows a wine or beer shipper to purchase the products he is shipping from a licensed wholesaler who may deliver such goods directly from the warehouse to the common carrier for delivery.

HB 1657. *Special license plates; Cold War veterans.* Specifies who qualifies as a "Cold War veteran."

HB 1661. *Private piers.* The Governor's recommendation changes a size specification required for the Virginia Marine Resources Commission private pier permit exemption from "any L or T head construction at the end of a pier does not exceed 25 feet in length and six feet in width" to "any L or T head construction platforms or protrusions do not exceed 250 total square feet."

HB 1678. *Uniform Statewide Building Code; inspection of rental property.* Adds a reenactment clause.

HB 1744. *Government Data Collection and Dissemination Practices Act; social security numbers.*

The amendments (i) extend the deadline for the replacement of voter registration cards to the December 31st next following the decennial redistricting from the 2010 census and (ii) provide an exemption for insurance licenses that extends until 12 months after the creation and implementation in all states of a national insurance producer identification number.

HB 1750. *Property tax exemptions.* Amendment clarifies the intent to continue all property tax exemptions granted by the General Assembly for charitable and other related organizations pursuant to subsection 6 (a) (6) of Article X of the Constitution of Virginia as such subsection existed prior to its amendment on January 1, 2003. This is a technical amendment.

HB 1756. *Health; emergency services.* Clarifies that the additional member of the State Emergency Medical Services Advisory Board must be a representative of the Virginia Professional Firefighters.

HB 1792. *Defaults on certain educational loans; health care professional licensure.* Provides, in an amendment in the nature of a substitute, a court procedure for pursuing payment of educational loans of allegedly defaulting health professionals that may result in an order to suspend the obligor's license, certificate, registration or other authorization to engage in a business, trade, profession or occupation. The substitute declares this procedure to be in addition to rather than in lieu of

any other remedy available to the obligee under present or future law.

HB 1856. *Definition of a firearm.* Technical conforming amendment.

HB 1858. *Solicitation of contributions; terrorist organization.* Technical amendment.

HB 1860. *Automated external defibrillators; public-access defibrillation.* Inserts a third enactment clause to declare an emergency and render the bill effective upon passage.

HB 1905. *Bail bondsmen.* Removes provisions that a licensed bail agent who was at one time licensed as a property and casualty agent may be licensed as surety bail bondsman.

HB 1914. *Elimination of the individual income tax subtraction for foreign source income.* Amendment allows a subtraction for foreign source income only in 2003 and only for foreign source dividends which should have been paid prior to January 1, 2003, but were in fact paid in 2003 pursuant to a final court order. The enrolled bill eliminated the subtraction for foreign source income beginning January 1, 2003. This amendment creates a very limited one-year exception to the elimination of the subtraction of foreign source income.

HB 1923. *Death penalty; mental retardation.* Amends provisions regarding significant limitations in adaptive behavior in the definition of mental retar-

ation. Also provides that the list of standardized measures of intellectual functioning maintained by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services is a "reference" list rather than an "exclusive" list.

HB 1925. *Technology infrastructure projects added to Public-Private Education Facilities and Infrastructure Act of 2002.* The amendment adds tangible personal property to the definition of qualifying project.

HB 1926. *Virginia Information Technologies Agency.* Amendments (i) repeal the Chief Information Officer Advisory Board, (ii) change the definition of "state agency" to specifically include executive branch entities that are listed in the appropriation act, (iii) clarify that payments to a private business pursuant to a public-private partnership may be made from cost savings in addition to increased revenue, and (iv) provide an expanded list of funding sources for the Virginia Technology Infrastructure Fund including costs savings as identified by the CIO and certified by the Auditor of Public Accounts. The amendments also add provisions relating to the CIO's review of budget requests that were passed in HB 1575 and make several technical amendments.

HB 2008. *Conditions of probation when restitution ordered.* Revises bill allowing the court to include funeral expenses as restitution in a DUI case to include expenses directly related to a funeral or burial.

HB 2155. *Juvenile medical records.* Technical amendments.

HB 2198. *Conditional votes; identification requirement.* The Governor's amendment revises the bill to provide that the same forms of identification, or alternative affidavit, are required for persons voting conditional ballots as required for all voters at the polls. Other technical changes are included to avoid conflicts with revisions to §24.2-653 included in SB 1107.

HB 2233. *Recognition of foreign adoption decrees.* Provides that the necessary documentation to obtain a Virginia certificate of birth for a child adopted in a foreign country that has post-adoption reporting requirements and with whom the United States has diplomatic relations includes evidence, such as an admission stamp in the child's passport, that the child was admitted to the United States with an immediate relative immigrant visa rather than the actual visa itself.

HB 2288. *Child protective services; investigation procedures.* Clarifies that the failure of the local department of social services to provide written notification to a school employee who is the subject of a child abuse or neglect complaint that he has the right to have an attorney or other representative of his choice during his interview shall not cause an otherwise voluntary statement to be inadmissible in a criminal proceeding.

HB 2290. *Computer crimes; enhanced penalties; forfeiture.* The amendments raise from a Class 1 misdemeanor to a Class 6 felony both the transmission of certain numbers of unsolicited bulk electronic e-mails within specified time periods, and the receipt of certain amounts of revenue generated by the transmission of unsolicited bulk electronic e-mail. This increased penalty also applies to hiring or using a minor to accomplish the offenses.

HB 2339. *In-state tuition for aliens.* Sets out conditions that, if satisfied, will allow a student who is an illegal alien to be eligible for instate tuition: i.e., the person has resided with his parent, guardian, or other person standing in loco parentis while attending public or private high school in Virginia and has (i) graduated from a public or private high school in Virginia; (ii) resided in the Commonwealth for at least 5 years as of the date the individual graduated from high school; (iii) registered as an entering student in an institution of higher education; (iv) provided an affidavit to the institution stating that he has filed an application to become a permanent resident of the United States and is actively pursuing such permanent residency; and (v) submitted evidence that he, or in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis, has paid Virginia income taxes for at least three years prior to the date of enrollment.

HB 2426. *Posting certain information on the Internet; prohibitions.* The amendment removes the requirement that establishing the applicant's purpose for accessing court documents be a required component of security standards for remote access.

HB 2445. *Sexually violent predators.* The amendments add a definition for "hospitalization" to mean appropriate treatment for a sexual predator; remove the requirement of use of a Sentencing Commission risk assessment instrument for determination of sexually violent predator status; substitute use of the Rapid Risk Assessment for Sexual Offender Recidivism for the Sentencing Commission risk assessment instrument when review of a sex offender due for release is done by the Director of the Department of Corrections and Commitment Review Committee; add a provision that requires that until July 1, 2004, each petition alleging that a person is a sexually violent predator shall result in a circuit court hearing within 60 days (rather than the currently authorized 30 days) on that issue.

HB 2453. *Electrical utility restructuring.* Adds an emergency clause.

HB 2471. *Dr. Martin Luther King, Jr. Memorial Commission.* Makes technical amendments to provide consistency and clarity

HB 2502. *Motor vehicle dealers, T&M vehicle dealers, trailer dealers, and motorcycle dealers.* Technical/editorial changes.

HB 2503. *Real estate appeals to Boards of Equalization and circuit court.* Amendment provides that in Arlington County, Richmond, Newport News, Chesapeake, Norfolk, and Virginia Beach appeals to the circuit court of assessments of commercial real estate must be filed within one-year from December 31 of the year in which such assessment is made. The enrolled bill gave taxpayers three years in which to file an appeal of any real estate assessment.

HB 2504. *Disabled parking.* Technical/editorial changes.

HB 2511. *Criminal justice training academies; fees.* The amendments add a list of the current fees assessed by the circuit court that provide monies to the fund and remove a code reference to general fees charged by the clerk of circuit court as a funding source.

HB 2533. *Virginia Public Procurement Act; certain transactions prohibited.* The amendments require the tax department to provide notice and opportunity to be heard prior to reaching its determination regarding whether a source is a prohibited source and clarify the appeals process after a determination has been made.

HB 2605. *Dialysis patient care technicians.* Expands the grandfather provision for persons currently employed as dialysis care technicians from "on or before June 30, 2003," to include all such technicians who

are employed "on or before the effective date of Board of Health Professions' final regulations."

HB 2610. *Foreign medical school graduates' requirements for admission to examination and licensure by the Board of Medicine.* Strikes new language authorizing foreign graduates to sit for a medical licensing examination at any time during the required postgraduate training.

HB 2678. *State Council of Higher Education; appointment of members.* Increases the membership of the State Council of Higher Education from 11 citizens to 13 non-legislative citizen members appointed by the Joint Rules Committee and the Governor. The Governor's substitute (i) states that the State Council is an executive branch agency; (ii) provides that all non-legislative citizen members must be citizens of the Commonwealth; (iii) provides that the terms of members who are not citizens of the Commonwealth expire upon the effective date of the act; and (iv) authorizes the Governor to appoint and set the term of office of the chairman of the council. The substitute also makes technical changes.

HB 2720. *Motor vehicle dealers; on-line filing fees; and manual transaction fees.* Technical/editorial changes.

HB 2723. *Real Estate Board; continuing education for licensees.* The amendments (i) provide an emergency extension for compliance with the licensure and certification requirements for persons on active military duty during 2003 for a period of one

year after being released from active duty, and (ii) clarify the discretion of the Real Estate Board to approve educational curriculum developed by approved schools or providers.

HB 2728. *Workers' compensation.* Adds (i) members of the State Police Officers' Retirement System, (ii) members of county, city or town police departments, (iii) sheriffs or deputy sheriffs, (iv) city sergeant or deputy city sergeants of the City of Richmond, (v) Capitol Police officers, and (vi) members of a search and rescue organization to the list of employees who are entitled to Workers' Compensation Act benefits if they incur an injury, disease or condition resulting from the administration of smallpox vaccine as part of federally initiated smallpox countermeasures, or from the transmission of vaccinia in the course of employment from an employee participating in such countermeasures to a co-employee of the same employee.

HB 2740. *Garnished wages protected by homestead exemption.* Provides that a claim of homestead exemption to protect garnished wages must be filed prior to or upon the return date of the garnishment summons rather than at any time after the garnishment summons is served on the employee.

HB 2764. *Fees for driving under in influence conviction.* Removes from the bill the imposition of an additional \$100 fee to be paid upon conviction of either driving while intoxicated or driving under the age of 21 with alcohol in the bloodstream. A similar provision

in the budget which imposes a \$100 fee upon conviction of any of the full spectrum of "DUI offenses" is left intact and is to become effective May 1, 2003.

HB 2797. *Overweight permits for specialized mobile equipment.* Provides for issuance of the permits by the DMV Commissioner rather than the VDOT Commissioner. This change will make this bill congruent with HB 1903, which transfers truck oversize and overweight permitting from the Department of Transportation to the Department of Motor Vehicles.

HB 2810. *Department of Health; regulation of bedding and upholstered furniture.* Adds two enactment clauses to require the Board of Health to promulgate emergency regulations to implement the provisions of this act and to mandate that the board's emergency regulations include a review and revision of the Department of Health's current fees to be consistent with the level of services required by this act.

SB 779. *Student assessments.* Provides that the Board of Education will not require administration of the Stanford 9 assessment, except as may be necessary to facilitate compliance with home instruction requirements, but clarifies that local school divisions may choose to do so. Also makes technical amendments.

SB 822. *Line of Duty Act; definitions.* The amendment extends coverage to any Department of Emergency Management hazardous materials officer.

SB 827. See HB 2471.

SB 889. *Commission on Unemployment Compensation.* Requires the Commission on Unemployment Compensation to include in its annual findings (i) a statement of how much the maximum weekly benefit for the current fiscal year deviates from 50 percent of the state's average weekly wage for the preceding calendar year and (ii) an annual comparison of the Commonwealth's maximum benefit amount and reciprocity rate with the maximum benefit and reciprocity rate for the District of Columbia, Maryland, North Carolina, South Carolina, and West Virginia.

SB 938. See HB 2533.

SB 950. *Animal rescues.* The Governor's recommendations correct an illogical threshold requirement of companion animals in the definition of "home-based rescue" and include technical amendments to remedy inconsistencies within the bill.

SB 951. *Chippokes Plantation Farm Foundation.* The amendment specifies that funding for the projects must be private or nonstate funding.

SB 954. See HB 1858.

SB 956. *Sales of cigarettes.* Removes the second enactment clause, which would prevent the

bill from going into effect without a general fund appropriation.

SB 970. *Court interpreters.* Technical amendment to delete obsolete reference to family courts.

SB 998. *Metropolitan Washington Airports Authority.* Amendment limits the waiver of sovereign immunity to \$5 million.

SB 1043. See HB 2288.

SB 1053. *Conservation easements; requirements to be a holder.* This bill allows non-Virginia-based organizations that have been in existence for five years and are in good standing with the State Corporation Commission to be sole holders of conservation easements. The Governor's recommendations would require such organizations to be national organizations and require them to have an office in the Commonwealth. Both of these provisions were in the bill as introduced, but were subsequently removed by Senate amendments.

SB 1107. *Administration of elections and election procedures; penalties.* The bill as passed incorporates numerous clarifications and revisions in the administration of elections and election procedures. The Governor's amendment deletes a proposed change pertaining to notice of terms and locations of certain registration sites where mail registration forms are available.

SB 1117. See HB 1652.

SB 1124. See HB 1402.

SB 1129. *Court fees and costs.* The numerous amendments adjust the amounts allocable under the fixed misdemeanor fees and fixed felony fees, taking into consideration some new fees payable by offenders.

SB 1139. See HB 2290.

SB 1143. *Final judgments in circuit court; when modifiable and appealable.* Postpones effective date until July 1, 2004.

SB 1149. See HB 2445.

SB 1169. *Medical treatment of prisoners.* Adds "serious medical needs" to those conditions for which medical treatment for inmates in jails shall not be withheld. The bill already includes communicable diseases and life-threatening conditions.

SB 1205. See HB 1541.

SB 1224. *EMTs' authorization to possess and administer epinephrine.* Changes the context of the language to be consistent with other language in the section and requires the Board of Health to adopt regulations to allow certain emergency medical services technicians to possess and administer epinephrine.

SB 1239. See HB 1923.

SB 1247. See HB 1926.

SB 1255. See HB 2678.

SB 1258. See HB 2764.

SB 1276. *Department of Motor Vehicles (DMV); customer service pilot project.* Provides that persons participating in the pilot project are bound by the same data release and dissemination rules as rules as DMV employees and provides that the legislation expires on July 1, 2005.

SB 1279. *Rail Transportation Development Authority.* Replaces a reenactment clause with a delayed effective date of July 1, 2004.

SB 1288. *In camera interviews in child custody or visitation hearings.* Amends bill that provides that a record of an in camera interview in a custody and visitation case must be made part of the case record if the parties or their counsel are not present, to provide that the record of the interview does not have to be made a part of the case record if doing so would endanger the safety of the child.

SB 1290. *Occupancy permits.* The amendments clarify that any person exempt from licensure because they are building a residence on their own property must obtain a certificate of occupancy prior to conveying it to a third party purchaser unless the purchaser consents to the purchase without the certificate of occupancy being issued.

SB 1316. *Medical malpractice joint underwriting association; activation.* Adds an emergency clause and requires the State Corporation Commission to immediately commence an investigation of the voluntary market for medical malpractice insurance. The commission shall report its findings and recommended actions by December 31, 2003.

SB 1324. See HB 2723.

SB 1345. See HB 2511.

Vetoos

HB 1406. *"Choose Life" special license plates.* The Governor does not "support political or ideological slogans on license plates, regardless of their expressed viewpoint."

HB 1684. *Line of Duty Act; definitions.* The Governor states that the issue identified in HB 1684 was adequately addressed in SB 822 and that it "was unnecessary for similar bills to go forward and become law in the Commonwealth."

HB 2490. *Estate tax.* According to the Governor, reform of the estate tax should not be done piecemeal, but as part of a comprehensive restructuring of the tax code.

SB 1123. See HB 2490.

**Bills Returned by the Governor to
the Regular Reconvened Session (1984-2003)**

YEAR	GOVERNOR	AMENDMENTS	VETOES	TOTAL UNSIGNED*	BILLS APPROVED	PERCENT RETURNED
1984	Robb	24	28	52	807	6.4
1985		28	23	51	640	8.0
1986	Baliles	51	4	55	649	8.5
1987		85	1	86	725	11.9
1988		107	8	115	915	12.6
1989		77	7	84	752	11.2
1990	Wilder	82	8	90	980	9.2
1991		83	19	102	742	13.7
1992		82	13	95	916	10.4
1993		110	13	123	1010	12.2
1994	Allen	160	20	180	995	18.1
1995		153	11	164	867	18.9
1996		151	9	160	1066	15.0
1997		155	11	166	933	17.8
1998	Gilmore	147	24	171	939	18.2
1999		118	13	131	1062	12.3
2000		60	16	76	1014	7.5
2001		91	7	98	785	12.5
2002	Warner	74	1	75	899	8.3
2003		87	4	91	955	9.5

*Total unsigned does not include line item vetoes (Budget Bills).

Sources: House and Senate Journals, House and Senate Calendars, and Acts of Assembly
Division of Legislative Services, 4/2/03