

# Governor's Amendments and Vetoes

## 2012 General Assembly Session



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***The Governor vetoed seven bills and recommended amendments to 131 bills passed by the 2012 General Assembly. The Division of Legislative Services staff prepared the following summaries to assist General Assembly members during their deliberations at the Reconvened Session on April 18. Not included are 18 bills returned with amendments and acted upon by the members during the 2012 Regular Session.***

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### Governor's Amendments

**HB 9. Voter identification requirements; provisional ballots.** The enrolled bill eliminates the provision that allows a voter to sign a sworn statement to identify himself in lieu of presenting identification, expands the list of permitted identification documents, and provides that a voter without identification may vote a provisional ballot. The Governor's amendments (i) recognize any (not just four-year) higher education student identification card as sufficient identification, (ii) delete the provision that a voter without identification will be allowed to vote at the polling place if he is recognized by an officer of election, (iii) give a voter without identification until the third day after the election to provide a copy of an identification document to the electoral board, (iv) allow the electoral board to use a signature comparison procedure to verify the identity of persons voting provisionally, and (v) provide for notice to voters whose provisional votes were not counted. SB 1, which is identical as enrolled, has the same Governor's amendments.

**HB 34. Advertising within highway limits.** Technical amendments.

**HB 35. Collection of state taxes; period of limitation.** The enrolled bill reduces the limitations period for the commencement or the institution of collection activities on delinquent state taxes from 10 years to seven years from the date of assessment. The Governor's amendment clarifies that if the Tax Commissioner has begun or instituted collection activity on a delinquent tax within the prescribed statutory period for the same, then the Tax Commissioner would not be prohibited from continuing collection activity on the delinquent tax beyond the period in which he was required to begin or institute collection activity.

**HB 74. Mandatory report of suspected child abuse; time limit.** Technical amendment.

**HB 79. Virginia Disability Commission; powers and duties; work groups; sunset.** Technical amendments.

**HB 80. Real property tax; assessment of wetlands.** The enrolled bill requires the local assessing official to separately assess the fair market value of wetlands on real property, if requested by the property owner. The Governor's amendments require the local assessing official only to consider making such assessment when requested.



**HB 85. HOV lanes; use by vehicle with clean special fuel license plates.** The enrolled bill requires the Commissioner of Highways to report annually to the Chairmen of the House and Senate Transportation Committees on those HOV facilities where high traffic volume has resulted in a degraded condition as identified by federal law. This report is to be used by the Chairmen as the basis for recommendations for further restrictions on the use of HOV facilities by clean special fuel vehicles. The Governor's amendment provides that use of HOV lanes by clean fuel vehicles is only permitted "provided such use is in compliance with federal law."

**HB 96. Accreditation of schools; delayed implementation of certain statutes and regulations.** The enrolled bill extends the delay of the implementation of certain statutes and regulations upon which the accreditation of schools in the Commonwealth is based that were not already in effect on June 30, 2008. The Governor's amendments limit the delay to statutes and regulations related to implementation of the Academic and Career Plan.

**HB 120. Tappahannock-Essex County Airport Authority.** The enrolled bill does away with the obligations of the Town of Tappahannock to fund the authority and to appoint certain members to it, reducing the size of the authority from seven to five members beginning on July 1, 2012. The Governor's amendments delay the changes until July 1, 2013, require that at least one of the members appointed by the board of supervisors of Essex County reside in the Town of Tappahannock, and make clarifying amendments.

**HB 135. Comprehensive Services for At-Risk Youth and Families; State Executive Council; membership.** The enrolled bill adds two local government representatives, chosen from the members of a county board of supervisors or a city council and a county administrator or city manager, to the State Executive Council (SEC) for Comprehen-

sive Services for At-Risk Youth and Families, increasing the number of local government representatives from three to five. The Governor's amendments remove the chairman of the state and local advisory team and one public provider from the SEC and remove language providing that alternates may be designated by and vote on behalf of local government representatives.

**HB 137. Workers' compensation; injuries presumed to be in course of employment.** The enrolled bill revises the provision enacted in 2011 that created a presumption, in the absence of a preponderance of evidence to the contrary, that an injury is work related if, among other things, the employee is physically or mentally unable to testify. The Governor's amendment provides that the employee's inability to testify must be "about the circumstances of the accident."

**HB 156. Board of Housing and Community Development; terms of certain members.** Technical amendment.

**HB 176. Expansion of Nutrient Credit Exchange Program.** Technical amendments. SB 77, which is identical as enrolled, has the same Governor's amendments.

**HB 185. Manner of enforcement of state criminal offenses.** The enrolled bill provides that "fines and forfeitures" from state offenses go to the Literary Fund. The Governor's amendments remove the words "and forfeitures" from the bill.

**HB 206. Real Estate Board; duties of real estate brokers and salespersons.** Technical amendments.

**HB 233. Time-Share Act; resales.** The enrolled bill subjects time-share resellers to regulation by the Common Interest Community Board and provides that a willful violation of an order issued by the Real Estate Board is a Class 1 misdemeanor. The Governor's amendment clarifies that the criminal penalty for violating a Real Estate Board order applies to orders regarding sections involving the Buyer's

Acknowledgment, required resale disclosures, and a reseller's registration with the Real Estate Board.

**HB 271. Substance Abuse Recovery Support Services Grant Fund and Program established.**

The enrolled bill establishes a program that would allow the Department of Behavioral Health and Developmental Services to provide grants, from private gifts and donations, to substance abuse recovery support services providers in the Commonwealth. The Governor's amendment adds a reenactment clause to the establishment of the program, and requires that the Department of Behavioral Health and Developmental Services submit a report to the Governor by December 1, 2012, identifying organizations that may raise and disburse funds for recovery support services.

**HB 302. Environmental laboratory certification program.** Technical amendment.

**HB 319. Conduct of elections; observers.** The enrolled bill requires observers to respect the area around voters and secrecy of the ballot. The Governor's amendments are clarifying. SB 537, which is identical as enrolled, has the same Governor's amendments.

**HB 321. Tax credits; assistance to low-income families, scholarships for K through 12 students attending private schools.** The enrolled bill establishes tax credits for individuals, business entities, and corporations making monetary donations to nonprofit organizations providing education improvement scholarships to students whose family's annual household income is not in excess of 300 percent of the current poverty guidelines and certain students with disabilities, in order for them to attend nonpublic elementary or secondary schools. The Governor's amendments (i) increase from 60 to 180 the number of days in which a person who has received preauthorization for a tax credit can complete the monetary donation to a nonprofit organization prior to the preauthorization expiring, (ii) provide that eligible scholarship students may

attend any eligible nonpublic school and allow a parent to transfer a scholarship to any other eligible nonpublic school of the parent's choice, (iii) require nonprofit organizations providing education improvement scholarships to develop procedures for disbursing scholarships in quarterly payments throughout the school year, and (iv) remove the annual \$175,000 cap on tax credits that business entities and corporations are allowed to earn under the Neighborhood Assistance Act Tax Credit program to parallel the nonexistence of an annual cap on tax credits for businesses entities and corporations under the Education Improvement Scholarship Tax Credit program.

**HB 325. Students with autism spectrum disorders; training required of personnel.** Technical amendment.

**HB 348. Asset forfeitures.** Technical amendments.

**HB 375. Control of firearms by localities; workplace rules.** The enrolled bill provides that no locality shall adopt any workplace rule, other than for the purposes of a community services board or behavioral health authority, that prevents an employee of that locality from storing at that locality's workplace a lawfully possessed firearm and ammunition in a locked personal, private motor vehicle. The Governor's amendment removes the word "personal" from the bill.

**HB 410. Condominium and Property Owners' Association Acts; recovery of costs and interest.** Technical amendments.

**HB 417. Elections; polling places; prohibited campaign area.** The enrolled bill relates to maintaining the 40-foot prohibited area at polling places in special situations. The Governor's amendments are expository.

**HB 471. Alcoholic beverage control; outdoor advertising; penalty.** Technical amendment. SB 398, which is identical as enrolled, has the same Governor's amendment.

**HB 491. Receivership of derelict and blighted buildings.** Technical amendment.

**HB 508. Synthetic cannabinoids; bath salts; penalties.** The enrolled bill amends provisions added to the *Code of Virginia* last year regarding the criminalization of synthetic cannabinoids and chemicals known as “bath salts.” The Governor’s amendment adds the hallucinogenic drug commonly known as 25-i and three additional compounds commonly substituted for bath salts as Schedule I drugs under the Drug Control Act. SB 273, which is identical as enrolled, has the same Governor’s amendment.

**HB 538. Hunter education program.** Technical amendment.

**HB 543. Licensed massage therapists.** The enrolled bill requires massage therapists to be licensed, rather than certified as under current law. The Governor’s amendment reinstates the certification requirement, but adds additional tests that may be accepted for purposes of certification.

**HB 561. Pittsylvania County; solid waste disposal fee.** The enrolled bill adds Pittsylvania County to the list of counties authorized to levy a fee for the disposal of solid waste, requiring that after July 1, 2012, such a fee may only be levied after a public hearing. The Governor’s amendment adds Pittsylvania County to a list of counties that are given certain specified authorities regarding the collection of the fee.

**HB 567. Water and sewer services; deposit, lien.** Technical amendments.

**HB 573. Flags flown at half staff.** The enrolled bill makes changes to the Uniform Flag Act. The Governor’s amendment adds members of the Virginia National Guard and Virginia Defense Force to the persons for whom state and local flags flown at buildings owned by the Commonwealth are to be flown at half staff if the person is killed in the line of duty.

**HB 599. Northern Virginia Transportation District; long-range planning.** Technical amendment. SB 531, which is identical as enrolled, has the same Governor’s amendment.

**HB 609. Department of Professional and Occupational Regulation; duties of regulatory boards.** Technical amendments.

**HB 625. Transportation planning; comprehensive plan.** The enrolled bill provides that when a locality in Planning District 8 (Northern Virginia) submits a proposed comprehensive plan or amendment to the Department of Transportation for review, the Department will determine the extent to which the proposal will increase traffic congestion or reduce the mobility of citizens in the event of a homeland security emergency and shall include such information as part of its comments on the proposed plan or amendment. The Governor’s amendment provides that information related to the mobility of citizens in the event of a homeland security emergency shall be provided only “to the extent feasible.”

**HB 658. State and Local Conflict of Interests Act; definition of personal interest in a transaction.** The enrolled bill provides that the salary or other compensation of a member of a local governing body appointed by such body to serve on another governmental agency shall not constitute a prohibited conflict of interest. The Governor’s amendment removes a reference to the appointed member’s immediate family, which was not intended to be included in the provision.

**HB 718. Juveniles; trial as adults.** The enrolled bill relates to the transfer and trial as adults of juveniles charged with certain offenses. The Governor’s amendments make the word “adjudication” plural in three places.

**HB 744. Interstate Compact on the Placement of Children.** The enrolled bill provides that regulations adopted by the Board of Social Services to implement the Interstate Compact on the Placement of Children

(ICPC) shall not prohibit the placement of a nonresident child in a children's residential facility in the Commonwealth by a custodial parent who assumed full financial responsibility for the child prior to final approval of the placement pursuant to the ICPC when the placement is made without the involvement of a public officer or agency. The Governor's amendment changes the language to provide that a custodial parent may place a child in a children's residential placement prior to final approval of the placement pursuant to the ICPC only in situations in which the custodial parent identifies an urgent need for assistance or relief and the placement is made in cooperation with the receiving children's residential facility.

**HB 767. Virginia Department of Business Assistance; Small Business Jobs Grant Fund.** Technical amendment.

**HB 768. Virginia Jobs Investment Program.** The enrolled bill codifies the Virginia Jobs Investment Program administered by the Department of Business Assistance. Under this program, moneys in the Virginia Jobs Investment Program Fund may be used to fund grants to businesses under the program. The Governor's amendments provide that moneys in this fund may also be used for assistance under the Small Business Jobs Grant Fund Program and delete provisions authorizing moneys in the Fund to be used for grants under the Small Business New Jobs Program.

**HB 771. Law-enforcement officers; campus police officers.** The enrolled bill added campus police to a provision that allows certain retired law-enforcement officers to carry a concealed handgun without a permit under certain circumstances but did not specify that they must be retired. The Governor's amendment makes campus police parallel with other retired law-enforcement officers.

**HB 777. Joint Subcommittee on Evaluation of Tax Preferences.** The enrolled bill requests the

Department of Taxation staff, under the Joint Subcommittee's guidance and instruction, to conduct independent evaluations of tax preferences and report its findings to the Joint Subcommittee. The Governor's amendment provides that the Governor would be requested to direct the Department of Taxation staff to conduct the evaluations of tax preferences in promoting economic activity, generating revenue, or otherwise achieving their intended policy purpose.

**HB 796. State Board of Health; guidelines for cleanup of residential property used as clandestine drug lab.** The enrolled bill requires the State Board of Health to establish guidelines for the cleanup of residential property formerly used as a clandestine methamphetamine laboratory. The Governor's amendment requires the Board of Health to work in consultation with the Department of Environmental Quality and other relevant and appropriate entities in doing so.

**HB 813. Commercial space flight; funding and oversight.** The enrolled bill reconstitutes the board of directors of the Virginia Commercial Space Flight Authority; allows the Authority to establish an alternative to the Virginia Retirement System defined benefit retirement plan for its employees as well as alternative health insurance, deferred compensation, and disability benefit plans; and transfers each fiscal year \$7.5 million from the Transportation Trust Fund to the Commonwealth Space Flight Fund administered by the board of directors of the Authority to support the capital needs, maintenance, and operating costs of facilities owned and operated by the Authority. The Governor's amendments increase from \$7.5 million to \$9.5 million the annual transfer from the Transportation Trust Fund to the Commonwealth Space Flight Fund, but sunset the transfers after the five-fiscal-year period ending on June 30, 2017. The Governor's amendments also include a technical amendment to provide that the Virginia Retirement System may include a hybrid

retirement program, to reflect the hybrid retirement program that is established under HB 1130 and SB 498. SB 284, which is identical as enrolled, has the same Governor's amendments.

**HB 904. Charter; Town of Middleburg.**

The enrolled bill empowers the town council to designate architectural control districts, specifying the issues of importance that the council must address through the design standards it adopts for each district. The enrolled bill also requires the town attorney to be licensed to practice in Virginia and omits the requirement that the attorney be in active practice in Loudoun County. The Governor's amendments strike the phrase "to be plainly offensive to human sensibilities" from the list of issues to be addressed by design standards and clarify the form that the standards may take and the means by which compliance with the standards may be determined.

**HB 926. Circuit court clerks; remote access to land records; fees collected by clerks; debit cards.**

The enrolled bill provides that fees collected by a circuit court clerk for processing credit or debit cards or for providing secure remote access to land records shall be deposited into a special revenue fund in the local treasury to be appropriated to the clerk by the local governing body. The Governor's amendments provide that such fees shall be deposited into a special revenue fund held by the clerk and make this provision identical to a provision in SB 251.

**HB 932. Nutrient management.** The enrolled bill provides that the Department of Conservation and Recreation operate a voluntary nutrient management program. The Governor's amendments give the Department of Conservation and Recreation authority to include certain protocols in the department's development of nutrient management regulatory criteria. These protocols would be used in determining soil fertility, animal manure nutrient content, or plant tissue nutrient uptake for the purpose of nutrient management.

**HB 933. Real property tax; exemption for disabled veterans.** The Governor's amendment is technical, combining changes to the same *Code* section in HB 933 and SB 22, so that the two bills conform in that respect.

**HB 945. Public procurement; performance and payment bonds on transportation-related projects.** The enrolled bill provides that payment and performance bonds for certain transportation-related projects could only be waived by a public body where the contractor presented satisfactory evidence that a surety company had denied his application for a bid bond. The Governor's amendment requires that for a waiver of the payment and performance bonds for certain transportation-related projects, the contractor must present satisfactory evidence that a surety company had denied his application for a payment and performance bond. Essentially, the Governor's amendments replace "bid bond" for "payment or performance bond" throughout the bill.

**HB 968. Manufacturing, etc., Schedule I and II drugs.** The enrolled bill adds a mandatory minimum term of confinement of three years for a second conviction of manufacturing, selling, giving, distributing, or possessing with intent to distribute a Schedule I or II drug (now five to life) and increases the mandatory minimum term for a third or subsequent conviction from five years to 10 years. The Governor's amendment increases the mandatory minimum term of confinement from three years to five years for a second such conviction and changes the fiscal impact statement to reflect the increase in imprisonment costs.

**HB 1034. Southern Growth Policies Agreement.**

The enrolled bill provides for the repeal of Chapter 57 (§§ 2.2-5700 through 2.2-5702) of Title 2.2 of the *Code of Virginia*, which establishes the Southern Growth Policies Agreement, and requires the Governor to notify the signatories of the Commonwealth's withdrawal from the Agreement. The bill has a delayed effective date of July 1, 2013.

The Governor's amendment provides that the first enactment, the repeal of Chapter 57 (§§ 2.2-5700 through 2.2-5702) of Title 2.2 of the *Code*, will become effective on July 1, 2013. The second enactment requiring the notification of the signatories to the agreement would become effective in due course.

**HB 1065. Integration of Erosion and Sediment Control Act, Stormwater Management Act, and Chesapeake Bay Preservation Act.** Technical amendments. SB 407, which is identical as enrolled, has the same Governor's amendments.

**HB 1092. Physical education; regulations.** The enrolled bill requires the Board of Education to develop regulations regarding physical education in public schools. The Governor's amendments require only guidelines for physical education, rather than requirements.

**HB 1107. Public schools; possession and administration of epinephrine.** The enrolled bill requires local school boards to adopt and implement policies for the possession and administration of epinephrine in every school. The Governor's amendment clarifies that the timeline for local school boards to adopt and implement those policies is by the beginning of the 2012-2013 school year. SB 656, which is identical as enrolled, has the same Governor's amendments.

**HB 1110. Landlord and tenant law; dwelling units.** The enrolled bill amends provisions of Virginia's landlord and tenant law, including the right of the tenant to remain in a foreclosed dwelling unit as a tenant pursuant to 12 U.S.C. § 5220, as amended, provided the tenant complies with the terms and conditions of the lease agreement, including payment of rent. The Governor's amendment replaces the reference to 12 U.S.C. § 5220 with a reference to the federal Protecting Tenants at Foreclosure Act, P.L. No. 111-22, § 702, 123 Stat. 1632, 1660 (2009).

**HB 1116. Entitlement to sales and use tax revenues; development of regional impact in the City of Bristol.** Technical amendments. SB 607, which is identical as enrolled, has the same Governor's amendment.

**HB 1137. Designation of historic districts.** The enrolled bill provides that before any locality designates by ordinance any building, structure, district, object, or site as part of a local historic district, the owners of such property shall be given written notice of the public hearing on the ordinance. The enrolled bill also requires a locality to identify and inventory all structures being considered for inclusion in such a district and to establish written criteria to be used in making such determination. The Governor's amendments make technical changes and add the qualifying phrase "unless otherwise expressly authorized by law" to the provision of the enrolled bill that states that the designation of a historic property as essential or important prior to 2012 shall not alter any legal rights of its owner.

**HB 1151. Petition requirements for statewide office candidates.** The enrolled bill relates to congressional redistricting and the requirement to collect 400 signatures from each congressional district. The Governor's amendments include a proper cross reference and delay the effective date to January 1, 2013.

**HB 1160. Unlawful detention of United States citizens.** The enrolled bill prohibits any agency, political subdivision, employee, or member of the military of Virginia from aiding an agency of the armed forces of the United States in the conduct of the investigation, prosecution, or detention of a United States citizen in violation of the United States Constitution, the Constitution of Virginia, or any Virginia law or regulation. The Governor's amendment in the nature of a substitute requires that the aid be done knowingly for the prohibition to apply and removes provisions relating to

investigations and prosecutions. The substitute also adds a provision that the prohibition does not apply to state or local law enforcement or Virginia National Guard or Virginia Defense Force participation in joint task forces, partnerships, or similar cooperative agreements with federal law enforcement as long as they are not for the purpose of detentions under the National Defense Authorization Act.

**HB 1167. High Performance Buildings Act.** Technical amendment.

**HB 1181. Public schools; reading intervention.** The enrolled bill requires local school divisions to provide reading intervention services to students in grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education. The Governor's amendments link the intervention services to performance on the Phonological Awareness and Literacy Screening (PALS) at the end of grade two, or the beginning of grade three, rather than the SOL. The amendments also require the parents' involvement in the development of the reading intervention plan and remove the local school divisions' discretion in providing the reading intervention services. The amendments provide for Board of Education requirements for the reading intervention services, documentation thereof, as well as good-cause exemptions for promoting a student with reading deficiencies from grade three to grade four, with required continued remediation in grade four.

**HB 1183. Virginia Port Authority.** The enrolled bill amends several provisions relating to the Virginia Port Authority, and extends until 2017 three existing tax credits that support economic development related to the Port. The Governor's amendments create a new tax credit for certain qualified businesses that locate in the Port of Virginia Economic and Infrastructure Development Zone on or after July 1, 2012. The earliest a business would be eligible to take

the tax credit is the fiscal year beginning on or after July 1, 2014. To be eligible, the business must import or export goods through the port or be engaged in certain maritime-related activities. The business would be eligible for a one-time credit based upon (i) its income generated in the Zone during the first year of operation in the Zone and (ii) the number of qualified full-time employees hired during its first year of operation in the Zone. The Governor's amendments also clarify the requirements for membership on the Virginia Port Authority Board of Commissioners and eliminate a requirement that the Governor report recommendations to the General Assembly regarding the creation of a Zone and incentive programs. SB 578, which is identical as enrolled, has the same Governor's amendments.

**HB 1184. Public schools; dual enrollment for high school students.** The enrolled bill requires local school boards and community colleges to develop written articulation agreements allowing high school students to complete an associate's degree or a one-year Uniform Certificate of General Studies from a community college concurrent with a high school diploma. The Governor's amendments remove the requirement that the agreements be written, and no longer refers to them as "articulation" agreements. They also specify that the agreements should include options for students to complete an associate's degree, rather than just pursue one.

**HB 1199. Administrative Process Act; right to counsel in rule-making proceedings.** Technical amendments.

**HB 1210. Lawn maintenance fertilizer; nutrient application rates.** The enrolled bill relates to nitrogen application rates. The Governor's amendments clarify that the definitions for "slow or controlled release fertilizer" and "enhanced efficiency lawn fertilizer" will be those definitions adopted or proposed by the American Association of Plant Food Control Officials and that the application rates for the fertilizers specified in the bill will be those described

by the Virginia Department of Agriculture and Consumer Services in its December 11, 2011, report entitled “Report on the Use of Slowly Available Nitrogen in Lawn Fertilizer and Lawn Maintenance Fertilizer.”

**HB 1219. Common Interest Community Board; Virginia Condominium Act; Virginia Real Estate Time-Share Act; common interest communities.** Technical amendments.

**HB 1230. Privatization of the Virginia Office for Protection and Advocacy.** The enrolled bill provides advocacy, legal, and ombudsman services to persons with disabilities in compliance with state and federal law no later than December 31, 2013. The Governor’s amendments add a reenactment clause and require the Joint Commission on Health Care to study this conversion and report back to the Governor and General Assembly by December 1, 2012.

**HB 1253. Cash proffers; profferer shall not waive rights against locality.** The enrolled bill prohibits any locality from accepting certain proffers purporting to contain a waiver of legal rights against the locality. The bill deems any such waiver in an enacted proffer void and severable and protects any rezoning from challenge on the basis of a profferer’s alleged violation of such a waiver provision. The Governor’s amendment adds an emergency clause to make the bill effective upon its passage.

**HB 1263. VDOT Integrated Directional Sign (“Logo Sign”) Program.** Technical amendment.

**HB 1271. Sexually violent predators; civil commitment.** Technical amendments.

**HB 1280. Psychiatric hospital admissions; local inmates.** The enrolled bill amends the criteria for psychiatric inpatient admission for inmates at local correctional facilities. The Governor’s amendment provides that the provisions of the act will expire on July 1, 2014.

**HB 1284. Duties of the circuit court clerk.** Technical amendment.

**HB 1291. Governor’s reorganization of executive branch of state government.** Technical amendments. SB 678, which is identical as enrolled, has the same Governor’s amendments.

**HB 1294. Prohibition of certain local fees.** The enrolled bill provides that localities shall not charge any fee to any church, synagogue, or other place of worship unless authorized by general law or special act of the General Assembly. The Governor’s amendment converts this bill from an uncodified Section 1 bill to a codified act and makes a technical amendment.

**HB 1295. Elimination of certain state mandates on local entities.** Technical amendments. SB 679, which is identical as enrolled, has the same Governor’s amendments.

**SB 1. Voter identification requirements; provisional ballots.** See HB 9, which is identical as enrolled and has the same Governor’s amendments.

**SB 22. Real property tax; exemption for disabled veterans.** The Governor’s amendment is technical, combining changes to the same *Code* section in HB 933 and SB 22, so that the two bills conform in that respect.

**SB 45. Open Education Curriculum Board.** The enrolled bill alters the role of the Open Education Curriculum Board from a policy board to an advisory board. The Governor’s amendment adds a sunset clause, which provides that the act will expire on July 1, 2013.

**SB 77. Expansion of Nutrient Credit Exchange Program.** See HB 176, which is identical as enrolled and has the same Governor’s amendments.

**SB 80. City of Virginia Beach; concurrent jurisdiction over adjoining waters.** Technical amendments.

**SB 164. Fraudulent and voluntary conveyances; power of court to set aside; sanctions.** Technical amendment.

**SB 171. Virginia Retirement System; certain local employees.** Technical amendment.

**SB 195. Local towing ordinances.** Technical amendments.

**SB 201. Hospital discharge; follow-up care.** The enrolled bill requires (i) hospitals to educate patients, and in certain circumstances their families, about follow-up care, treatment, and services upon discharge and (ii) community services boards to provide information to hospitals about alcohol and substance abuse services available to minors. The Governor's amendments clarify that the duty to inform and educate about follow-up care, treatment, and services applies to the extent allowed pursuant to state and federal law. Other amendments are technical.

**SB 217. Public schools; residency of children in kinship care.** The enrolled bill allows a child receiving kinship care from an adult relative to be enrolled in the school division where the kinship provider resides. The Governor's amendment allows local school divisions to require a court order, rather than a power of attorney as in the enrolled bill, authorizing the adult relative to make educational decisions regarding the child.

**SB 227. Certain service districts; allocation of revenues.** The enrolled bill allows a town located within a stormwater service district to retain any revenues collected by the service district within the town, so long as the town maintains its own MS4 permit. The Governor's amendment allows a town that maintains its own stormwater service district to retain revenues in the same manner.

**SB 239. Suspected child abuse and neglect; mandatory reporting; penalties.** The enrolled bill expands the list of mandated reporters of child abuse

and neglect, reduces the time for reporting suspected child abuse or neglect, and increases the penalties for failure to report suspected child abuse or neglect by a mandated reporter. The Governor's amendments add language limiting mandated reporting of suspected child abuse or neglect by a person associated with or employed by a public or private organization responsible for the care, custody, or control of children to individuals who are 18 years of age or older. The Governor's recommendation also clarifies that the mandated reporting requirement for any person who has received training approved by the Department of Social Services for such purpose applies to individuals who are 18 years of age or older, rather than individuals over the age of 18 years, as the bill is currently written.

**SB 273. Synthetic cannabinoids; bath salts; penalties.** See HB 508, which is identical as enrolled and has the same Governor's amendment.

**SB 284. Commercial space flight; funding and oversight.** See HB 813, which is identical as enrolled and has the same Governor's amendments.

**SB 398. Alcoholic beverage control; outdoor advertising; penalty.** See HB 471, which is identical as enrolled and has the same Governor's amendment.

**SB 407. Integration of Erosion and Sediment Control Act, Stormwater Management Act, and Chesapeake Bay Preservation Act.** See HB 1065, which is identical as enrolled and has the same Governor's amendments.

**SB 409. Recordation tax.** The enrolled bill eliminates the recordation tax exemption for certain deeds of trust securing a refinanced obligation or a modified obligation, and establishes a reduced tax for such deeds of trust. Under current law, there is an exemption for a deed of trust or mortgage that is refinanced or modified with the same lender on the principal amount of the original debt. The Governor's amendments preserve the current tax rate for deeds of trust securing modified obligations.

**SB 493. Energy efficiency programs.** The enrolled bill establishes requirements regarding State Corporation Commission approval of energy efficiency program proposed by electric utilities. The Governor's amendment (i) adds an emergency clause and (ii) provides that the act does not apply to a case or proceeding filed with the State Corporation Commission prior to March 10, 2012.

**SB 497. Virginia Retirement System; local employee contributions.** The enrolled bill requires that local employees and school board employees pay the five percent employee contribution to the Virginia Retirement System, and eliminates the locality's or school board's discretion to pay the contribution on behalf of its employees. The bill requires that the five percent contribution be offset by a five percent raise for the affected employees. Local employees must begin paying the entire five percent contribution and may receive the raise on July 1, 2012, but school boards may elect to allow employees to phase in the contribution over five years, and the accompanying raise may also be phased in at the same rate. The Governor's amendments would allow all local government employers, including school boards, to phase in the employee contribution and the accompanying raise over five years.

**SB 498. Virginia Retirement System.** The enrolled bill makes several changes to the Virginia Retirement System, including benefit changes for nonvested employees, the creation of a hybrid defined contribution/defined benefit plan for all employees hired on or after January 1, 2014, and the creation of a new disability plan for local employees participating in the hybrid plan. The enrolled bill allows local government employers to make an irrevocable election for its employees to participate in the new disability plan. The Governor's amendments would require participation by local government employers unless the governing body of the employer adopts a resolution opting out of the plan because it provides or will establish a disability plan with comparable

benefits. The Governor's amendments also make several technical changes to the enrolled bill.

**SB 502. Emissions inspections.** Technical amendment.

**SB 530. Public hearings prior to certain VDOT projects.** The enrolled bill requires the institution of higher education to hold at least one public hearing before VDOT undertakes any safety-related or congestion management-related highway project requested by any college, university, or institution of higher education in the Commonwealth. The Governor's amendments (i) change the title of the bill to reflect amendments in the course of committee consideration, (ii) limit the bill's application to projects of \$1 million or more, and (iii) make a technical change.

**SB 531. Northern Virginia Transportation District; long-range planning.** See HB 599, which is identical as enrolled and has the same Governor's amendment.

**SB 537. Conduct of elections; observers.** See HB 319, which is identical as enrolled and has the same Governor's amendments.

**SB 541. Auxiliary police forces; Department of Criminal Justice Services to establish training requirements.** The enrolled bill requires the Department of Criminal Justice Services to establish compulsory training standards for all auxiliary police officers employed by or in any local or state agency. It exempts officers employed prior to July 1, 2012, from any initial training requirements until one year subsequent to the promulgation of such standards. The Governor's amendments remove the requirement that to be exempted an officer must have been employed prior to July 1, 2012, so that all officers are exempted from the training requirements until one year subsequent to the promulgation of the training standards.

**SB 578. Virginia Port Authority.** See HB 1183, which is identical as enrolled and has the same Governor's amendments.

**SB 595. Railroad grade crossings.** Technical amendment.

**SB 603. Nonpayment of jail fees; suspension of driver's licenses.** The enrolled bill provides for the suspension of or refusal to renew the driver's licenses of persons who had been committed to jail and who do not pay the fees that jails are allowed to charge to defray the cost of their keep. The bill allows the persons whose licenses are suspended for nonpayment to petition a district court for a one-year restricted permit. The enrolled bill provided for establishment of a deferred payment schedule by the sheriff or jail superintendent at his discretion and the Governor's amendment adds a provision mandating the establishment of such a payment schedule in the case of a person who cannot pay in full and that the schedule is subject to approval by a general district court. There are also technical amendments.

**SB 607. Entitlement to sales and use tax revenues; development of regional impact in the City of Bristol.** See HB 1116, which is identical as enrolled and has the same Governor's amendment.

**SB 614. Local sales tax distribution; correction of erroneous payments.** The enrolled bill requires the state to make adjustments in the next month's distribution of sales tax revenues to a locality after it is discovered that an error in payment was made. Current law spreads the adjustment over a period of six months. The Governor's amendment spreads the adjustment over a period of two months.

**SB 629. Sanitation districts; per diem.** The enrolled bill provides that members of sanitation district commissions may be paid a reasonable per diem and raises the maximum payment from \$300 annually to \$1,500 annually. The Governor's amendment returns the maximum per diem to the original amount of \$300 annually.

**SB 653. Condemnation; public uses.** The enrolled bill provides that lands may be condemned for certain specified uses, including the installation of electric utility lines or telephone lines, because those uses are inherently public uses when undertaken by a locality. The Governor's amendments make technical changes and replace four particular statutory citations with a general reference to applicable law.

**SB 656. Public schools; possession and administration of epinephrine.** See HB 1107, which is identical as enrolled and has the same Governor's amendments.

**SB 676. Recycling rate report.** The enrolled bill requires solid waste planning units or localities with a population greater than 90,000 to submit a recycling report annually and requires those units or localities with a population of 90,000 or less to submit the report at least once every four years. The Governor's amendments raise the population threshold for submission of an annual recycling report. Solid waste planning units or localities with a population greater than 100,000 would have to submit an annual report, with those having a population of 100,000 or less required to submit a report once every four years. The latter report would only have to include the recycling statistics for the most recent year.

**SB 678. Governor's reorganization of executive branch of state government.** See HB 1291, which is identical as enrolled and has the same Governor's amendments.

**SB 679. Elimination of certain state mandates on local entities.** See HB 1295, which is identical as enrolled and has the same Governor's amendments.

**SB 680. Neighborhood Assistance Act Tax Credit.** Technical amendment.

## Governor's Vetoes

**HB 399. Critical Congenital Cyanotic Heart Disease Screening Program.** The enrolled bill seeks to direct the Virginia Department of Health to convene a work group to develop a plan for implementing a program for screening infants born in the Commonwealth for critical congenital cyanotic heart disease. The Governor's veto letter states that "While I commend the affected stakeholder and the Virginia Department of Health for working diligently together on a grant application for funding to implement screening for critical congenital heart disease, legislation is simply not needed for the creation of a work group. In accordance with my efforts to reform state government to reduce the number of boards, commissions and work groups that continue in perpetuity through legislative enactments, I veto House Bill 399. I believe House Bill 399 seeks to address an issue that deserves attention. As such, the Virginia Department of Health has an existing work group planning the implementation of appropriate early intervention services to infants identified as having critical congenital cyanotic heart disease. The goal of early intervention services will be to reduce rates of death or disability among such children. The plan shall also provide for implementation of a program for screening infants for critical congenital cyanotic heart disease through the use of pulse oximetry monitoring in all hospitals providing maternity services in the Commonwealth. The Virginia Department of Health will submit a report on the status of the work group to my Chief of Staff, Martin Kent, through the Secretary of Health and Human Resources, William A. Hazel, Jr., M.D., by December 1, 2012. A copy of the report will be sent to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions."

**HB 423. Common Interest Community Board; duties.** The enrolled bill requires the Common

Interest Community Board to develop and publish best practices and model declarations. The Governor's veto letter states that "Virginia law already defines and outlines the minimum components required for declarations, those legal documents establishing the contract between members and their condominium, real estate cooperative, or property owners' association. Declarations are specific to each community, and associations should rely on attorneys and other real estate professionals in creating those governing documents, rather than relying on a model declaration from a state government board. While perhaps well intentioned, this bill increases the Common Interest Community Board's workload without any discernible benefit."

**HB 736. Adjusted primary date for 2012.** The enrolled bill would have delayed the usual June primary date if the congressional redistricting plan were not precleared by April 3, 2012, by the Department of Justice under Section 5 of the Voting Rights Act. Since the plan was precleared by the Department on March 14, 2012, the usual June primary date remains in effect. By its own terms, HB 736 will not take effect, and a veto is appropriate.

**HB 878. License taxes on certain motor vehicles.** The enrolled bill would authorize localities to impose a license tax, not to exceed \$250 annually, upon resident owners of motor vehicles that do not display license plates issued by the Commonwealth and that are not exempted from the requirements of displaying such license plates. The Governor's veto letter states that "The intent of this legislation is to encourage residents moving to the Commonwealth to register their vehicles in Virginia so that the localities may collect the personal property tax levied upon such vehicles. However, the intent of the Code section being amended is to discourage residents from storing large numbers of vehicles on residential property. Further, the obligation of a resident moving to the Commonwealth to register

his or her vehicle in Virginia is codified at § 46.2-662, which allows a resident 30 days to register his or her vehicle in Virginia. If a resident does not meet these requirements, he or she already may be subject to a \$250 traffic citation per § 46.2-113. This legislation includes no requirement for or reference to a resident's obligation to register his or her vehicle with the Department of Motor Vehicles under state law. Therefore, I believe the new license tax conflicts with and adds a second penalty to the existing state law. The intent of this legislation may be more appropriately addressed in Title 46.2 of the Code of Virginia."

**HB 886. Chronic school absenteeism and truancy.** The enrolled bill requires the Board of Education to promulgate regulations by July 1, 2013, to address truancy. The Governor's veto letter states that "While this Section I legislation has a worthy goal, it is not necessary since the Virginia Board of Education is currently in the process of promulgating Regulations Governing Unexcused Absences and Truancy [8 VAC 20 - 730]. These new regulations will govern the collection and reporting of truancy-related data and provide guidance on school attendance policy. The proposed regulations were initiated in 2010, and are in the final stages of the Administrative Process Act (APA). As the Board of Education completes the regulatory process, I will ask the Board via letter to address the criteria outlined in HB 886, and consider emphasizing the importance of working with the parents and the community organizations early in the process, before truancy becomes a serious problem for a student. I am confident the laudable intent of HB 866 can easily be addressed in the truancy regulations currently being promulgated by the Virginia Board of Education. Hence, HB 866 is not necessary."

**SB 471. Physical education; regulations.** The enrolled bill requires the Board of Education to promulgate regulations governing physical education programs in public schools. The Governor's veto

letter states that "As Governor, I have worked with the Virginia Department of Health and the Virginia Foundation for Healthy Youth in the effort to curb childhood obesity. It is an issue important to all Virginians and I applaud the work of Senator Northam and interested parties in their attempt to address this problem. However, solutions to childhood obesity cannot include additional regulations that will place significant unfunded mandates on local school divisions. This bill without all of the amendments I proposed creates the inference of required physical education programs in public schools, which we cannot require at this time."

**SB 627. Solar panels in community associations.** The enrolled bill would invalidate certain community association restrictive covenants on solar power devices. The Governor's veto letter states that "The current statute bars community associations from prohibiting or restricting solar power devices, effective July 1, 2008. This bill alters the effective date by including language preventing the bar from being applied to restrictive covenants in effect prior to that date. By removing that language, Senate Bill 627 appears to contradict the general legislative rule that statutory enactments are applied prospectively. In addition to the problem of retroactive application, the legislation potentially violates both the United States Constitution (Article I, Section 10) and the Virginia Constitution (Article I, Section 11) by "impairing the obligation of contracts." Existing law provides sufficient opportunity for community association owners to allow solar power devices if a majority so desires, by amending any applicable restrictive covenants."

*Bills Returned by the Governor after Sine Die to  
the Regular Reconvened Session (1986-2012)*

YEAR	GOVERNOR	AMENDMENTS	VETOES	UNSIGNED AFTER SINE DIE	TOTAL SENT TO GOVERNOR	PERCENT RETURNED AFTER SINE DIE
1986	<b>Baliles</b>	51	4	55	648	8.5
1987		85	1	86	724	11.9
1988		107	8	115	915	12.6
1989		77	7	84	752	11.2
1990	<b>Wilder</b>	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	<b>Allen</b>	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	<b>Gilmore</b>	147	24	171	939	18.2
1999		118	13	131	1062	12.3
2000		60	16	76	1089	7.0
2001		91	7	98	882	11.1
2002	<b>Warner</b>	74	1	75	899	8.3
2003		87	4	91	1046	8.7
2004		60	2	62	1035	6.0
2005		45	1	46	949	4.8
2006	<b>Kaine</b>	123	7	130	958	13.6
2007		106	10	116	958	12.1
2008		36	1	37	889	4.2
2009		101	12	113	886	12.8
2010	<b>McDonnell</b>	102	0	102	871	11.7
2011		132	5	137	892	15.4
2012*		113	7	120	855	14.0

\*17 bills were returned and approved with Governor's amendments and one bill with two Governor's amendments had one amendment approved and one rejected during the 2012 Regular Session.

Sources: House and Senate Journals and Acts of Assembly.

Governor's Amendments and Vetoes

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**2012 General Assembly Session**

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