

Governor's Amendments and Vetoes

2018 General Assembly Session

The Governor vetoed 10 bills and recommended amendments to 60 bills passed by the 2018 Session of the 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 in the Governor's Amendments section are seven bills returned with amendments acted upon by the members during the 2018 Regular Session.

Governor's Amendments

House Bills

HB 83. Feminine hygiene products; no cost to female prisoners or inmates. The enrolled bill requires the Director of the Department of Corrections to adopt and implement a standard to ensure the provision of feminine hygiene products to female prisoners without charge. The Governor's amendment requires the Director to adopt and implement a policy and procedure to this effect, rather than a standard.

HB 155. Clinics for the treatment of opioid addiction; location. The enrolled bill creates an exception for certain existing clinics located in Henrico County or the City of Richmond for the treatment of persons with opiate addiction to the prohibition on the licensure of such clinics that are located within one-half mile of a public or private licensed day care center or public or private K-12 school. The Governor's amendment adds existing clinics located in the City of Newport News to the exception created by the bill.

HB 192. Rainwater and gray water; regulations. The enrolled bill directs the State Department of Health (the Department) to adopt regulations regarding the use of gray water and rainwater. The Governor's amendments (i) provide that the State Board, not the Department, shall adopt such regulations; (ii) define by reference the term "human consumption" as used in the bill to mean drinking, food preparation, dishwashing, bathing, showering, hand washing, teeth brushing, and maintaining oral hygiene; and (iii) provide that such regulations do not apply to water not for human consumption.

HB 284. Historical African American cemeteries; owners and localities receiving funds. The enrolled bill requires, among other things, that the owner of a historical African American cemetery allow reasonable access to the cemetery by qualified organizations that receive funds for cemetery care and maintenance. The Governor's amendments eliminate the requirement that access be allowed and instead direct the owners of such cemeteries to reasonably cooperate with qualified organizations that receive such funds.

HB 286. Wineries; dogs allowed inside. The enrolled bill provides that dogs may be allowed inside or on the premises of a licensed distillery, winery or farm winery, or brewery or farm brewery, except in any area used for the manufacture of food products. Current law provides that no animal shall be permitted in any area used for the manufacture of food products, with certain exceptions for guard or guide animals. The Governor's amendment requires that the licensed

distillery, winery or farm winery, or brewery or farm brewery designate areas within which dogs are allowed.

HB 297. Administrative Process Act; guidance documents. The enrolled bill exempts guidance documents from the Administrative Process Act (APA), provided that each document is subject to a public comment period prior to final publication of the document. If public comment is received indicating that the proposed document is contrary to existing law or regulation, then publication shall be delayed by an additional 30 days, and any person who remains aggrieved after the publication may pursue remedies under the APA. The Governor's amendments connect each of these events to the effective date of the guidance document instead of its publication date. A Governor's amendment also adds a delayed effective date of January 1, 2019, to the bill's provisions. A technical amendment is made.

HB 365. Income tax subtraction; Virginia real estate investment trust income. Technical amendment.

HB 376. Secure and Resilient Commonwealth Panel; membership. The Governor's amendments change the membership of the Secure and Resilient Commonwealth Panel by replacing the Secretary of Technology with the Secretary of Administration.

HB 511. Child abuse or neglect; sex offenders; investigations; reports to law enforcement. The enrolled bill requires local departments of social services to (i) notify the local attorney for the Commonwealth and the local law-enforcement agency of all complaints of suspected child abuse or neglect involving a child being left alone with a person to whom the child is not related by blood or marriage and who has been convicted of an offense against a minor for which registration is required as a violent sexual offender and (ii) provide the local attorney for the Commonwealth and the local law-enforcement agency with records and information of the local department of social services, including records related to any complaints of abuse or neglect involving the victim or the alleged perpetrator, related to the investigation of the complaint. The Governor's amendments remove the requirement that notice of such suspected child abuse or neglect be given to the local law-enforcement agency and direct local departments of social services to provide the local attorney for the Commonwealth with records and information that would help determine whether a violation of post-release conditions, probation, parole, or court order has occurred due to the nonrelative sexual offender's contact with the child.

HB 523. Board of Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; membership. The enrolled bill adds two nonlegislative citizen members to the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. The Governor's amendment changes from eight to nine the number of Board members that constitute a quorum and adds that one of the nine must be a nonlegislative citizen member.

HB 543. Department of General Services; lease of surplus property. The enrolled bill permits the Department of General Services to allow certain charitable organizations to lease or sublease at cost surplus property or space within a building owned by the Commonwealth or any space leased by the Commonwealth in excess of current and reasonably anticipated needs, provided

that such use is deemed appropriate. The Governor's amendment clarifies that any such policy is subject to the approval of the Governor and on such terms as approved by the Governor.

HB 638. Trespass; unmanned aircraft system; penalty. The enrolled bill provides that any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or harass another person or (ii) after having been given notice to desist, for any other reason, is guilty of a Class 1 misdemeanor. The enrolled bill also provides that any person who is required to register with the Sex Offender and Crimes Against Minors Registry who uses or operates an unmanned aircraft system to knowingly and intentionally (a) follow or contact another person without such person's permission or (b) capture images of another person without such person's permission when such images render the person recognizable is guilty of a Class 1 misdemeanor. Additionally, any respondent of a permanent protective order who uses or operates an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of any individual named in the protective order is guilty of a Class 1 misdemeanor. The enrolled bill also repeals the expiration of the prohibition on local regulation of privately owned, unmanned aircraft systems, clarifies the scope of such prohibition, and clarifies that such prohibition extends to all political subdivisions and not only to localities. The Governor's amendments exempt local school boards from the prohibition on local regulation of privately owned, unmanned aircraft systems and require the Secretary of Commerce and Trade, in consultation with the Virginia Economic Development Partnership, to study the impact of the bill on unmanned aircraft research, innovation, and economic development in Virginia and report to the Governor and General Assembly no later than November 1, 2019. A Governor's amendment also clarifies part of the exemption to the crime of knowingly and intentionally causing an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house so that the exemption is limited to persons operating such systems for commercial purposes and in an otherwise lawful manner. SB 526, which is identical as enrolled, has the same Governor's amendments.

HB 665. Coal tax credits. The Governor's amendment adds a reenactment clause to the bill. SB 378, which is identical as enrolled, has the same Governor's amendment.

HB 680. Motor vehicle sales and use tax; semitrailers. The enrolled bill lowers the minimum state sales and use tax on trailers from \$75 to \$35. The Governor's amendments add a reenactment clause to the bill and direct the Commissioner of the Department of Motor Vehicles to work with the Virginia Department of Transportation and other stakeholders to determine the potential impact of such reduction on Commonwealth transportation funds and to report such information to the Governor and General Assembly no later than December 1, 2018.

HB 763. Revenue Reserve Fund created. The enrolled bill creates a Revenue Reserve Fund (the Fund) to be used to offset anticipated shortfalls in revenues when a revised general fund forecast predicts a decline in general fund collections of less than two percent when compared with the previous year's collections. In this circumstance, the General Assembly may appropriate for transfer from the Fund an amount not to exceed 50 percent of the amount in the Fund. The

Governor's amendment would remove the limitation that only 50 percent of the amount in the Fund could be transferred.

HB 765. Transportation processes in the Commonwealth; responsibilities of transportation entities; funding. The enrolled bill requires the Commissioner of Highways to provide a report on the expenditures from the Highway Maintenance and Operating Fund for the past fiscal year as well as the planned expenditure for the current fiscal year. The Governor's amendment changes the expenditures on which the Commissioner of Highways is required to report from the Highway Maintenance and Operating Fund to the Highway Maintenance and Operating Program. The enrolled bill provides that funds allocated by the Commonwealth Transportation Board for revenue-sharing with localities shall not exceed the greater of \$100 million or seven percent of funds available for distribution by the Board from all funds made available for highway purposes, whichever is greater, in each fiscal year. The Governor's amendment clarifies that the seven percent of funds available for distribution will be calculated based on the value prior to the distribution of funds for revenue-sharing with localities.

HB 770. Virginia Economic Development Partnership Authority. The Governor's amendment adds an emergency clause to the bill.

HB 887. Onsite sewage systems; maintenance. The enrolled bill provides (i) that the adjustment or replacement of sewer lines, conveyance lines, distribution boxes, or header lines is considered maintenance of an onsite sewage system and thus does not require a permit and (ii) that, *unless otherwise provided in local ordinance*, maintenance does not include replacement of tanks, drainfield piping, subsurface drainfields, or work requiring a construction permit and installer. The Governor's amendments provide (a) that, *notwithstanding local ordinance*, maintenance does not include replacement of tanks, drainfield piping, subsurface drainfields, or work requiring a construction permit and installer and (b) that unless otherwise prohibited by local ordinance, a conventional onsite sewage system installer or an alternative onsite sewage system installer may perform maintenance work limited to in-kind replacement of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.

HB 888. Onsite sewage systems; evaluation and design services. Technical amendments.

HB 919. Public institutions of higher education; course credit. The enrolled bill makes several changes relating to course credit at public institutions of higher education in the Commonwealth, including requiring (i) the Virginia Community College System to develop a 15-credit-hour Passport Program and a 30-credit-hour Uniform Certificate of General Studies Program to be offered at each comprehensive community college and for which courses are transferable, except in certain circumstances, to each baccalaureate public institution of higher education and (ii) each baccalaureate public institution of higher education to develop pathway maps that clearly set forth the courses that a student at a comprehensive community college is encouraged to complete prior to transferring to the baccalaureate institution. The Governor's Amendment in the Nature of a Substitute (a) makes numerous technical changes, (b) requires the Virginia Community College System to establish the one-semester Passport Program and one-year Uniform Certificate of General Studies Program as required by the bill by July 1, 2020, (c)

requires each associate-degree-granting public institution to offer such programs by the 2020-2021 academic year, and (d) repeals the second and third enactments of Chapter 521 of the Acts of Assembly of 2017. Chapter 521 created the passport program and the timeline and requirements of the second and third enactments are subsumed in this year's legislation. SB 631, which is identical as enrolled, has the same Governor's Amendment in the Nature of a Substitute.

HB 1000. School boards; employment of certain individuals. The enrolled bill permits any school board to employ an individual who, at the time of the individual's hiring, has been convicted of a felony, provided that such individual (i) was employed in good standing by a school board on or before December 17, 2015; (ii) has been granted a simple pardon for such offense by the Governor or other appropriate authority; and (iii) has had his civil rights restored by the Governor or other appropriate authority. The Governor's amendment permits any school board to employ, until July 1, 2020, such an individual who has not been granted a simple pardon and has not had his civil rights restored, provided that such individual has been continuously employed by the school board from December 17, 2015, through July 1, 2018.

SB 343, which is identical as enrolled, has the same Governor's amendment.

HB 1144. Voter registration; person assisting with the completion of collection of completed voter registration applications; certain identifying information required. The enrolled bill requires any person who assists an applicant with the completion of a voter registration application or collects a completed voter registration application directly from the applicant to provide his name and telephone number and the group or organization he is affiliated with, if any, on the registration application.

The Governor's Amendment in the Nature of a Substitute requires the voter registration application to request that the applicant provide his telephone number and email address but prohibits any application from being denied for failure to provide such information. The Governor's Amendment in the Nature of a Substitute also provides that if an application is denied and the applicant provided his email address, the general registrar may send information to that email address regarding online voter registration. If the applicant provided his phone number and the general registrar is able to reach the applicant by telephone, the applicant may provide missing information or make corrections by telephone.

HB 1163. Fire protection; applicant preemployment information with fire departments.

The enrolled bill allows any fire department, pursuant to a local ordinance adopted in accordance with § 19.2-389, to require applicants for employment to submit to fingerprinting and to provide personal descriptive information. The Governor's amendment clarifies that it is the locality that adopts the ordinance permitting the local fire department to require such information from applicants.

HB 1258. Zoning for wireless communications infrastructure. The enrolled bill establishes parameters regarding applications for zoning approvals for certain wireless support structures. A Governor's amendment directs the Secretariats of Commerce and Trade and Public Safety and Homeland Security to convene a group of stakeholders to develop a plan for expanding access to

wireless services in unserved and underserved areas of the Commonwealth. The Governor's other amendments (i) provide that the limit on the authority of a locality to condition or require the approval of an application on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project applies only where it is the sole basis for such condition or requirement and (ii) replace three references to "nonpublic providers of cable television and electric service" with "other providers of functionally equivalent service." SB 405, which is identical as enrolled, has the same Governor's amendments.

HB 1328. Hunting; disabled hunter exempt from local tree stand requirement. The enrolled bill exempts certain disabled hunters from any local ordinance requiring hunting from an elevated platform or tree stand. The Governor's amendment limits the exemption only to a hunter whose disability is based on a physical impairment or deformity.

HB 1351. Joint legal or physical child custody. The enrolled bill provides that the court shall consider and may award joint legal, joint physical, or sole custody of a child and there shall be no presumption in favor of any such form of custody. The Governor's amendment adds language requiring a court, upon the request of any party, to make any finding of fact required by state or federal law to enable a child who is the subject of a custody or visitation proceeding to receive a state or federal benefit.

HB 1427. Wireless support structures; public rights-of-way use fees. The enrolled bill establishes an annual wireless support-structure public right-of-way use fee to be charged to wireless service providers and wireless infrastructure providers in connection with a permit to use a public right-of-way under the jurisdiction of the Virginia Department of Transportation or a locality. The Governor's amendments would limit the imposition of the fee only to the use of public rights-of-way under the jurisdiction of the Department of Transportation. SB 823, which is identical to HB 1427 as enrolled, has the same Governor's amendments.

HB 1441. Taxation of all-terrain vehicles, mopeds, and off-road motorcycles. The Governor's amendments are technical. SB 249, which is identical as enrolled, has the same Governor's amendments.

HB 1450. The BVU Authority. The Governor's amendment adds an emergency clause to the bill.

HB 1539. Mass transit in the Commonwealth. The enrolled bill makes numerous changes to the administration of and revenues for mass transit in the Commonwealth, specifically relating to funding of the Washington Metropolitan Area Transit Authority (WMATA), the Virginia Railway Express, and the disbursement of funds in the Commonwealth Mass Transit Fund. The enrolled bill uses a variety of existing revenue sources to allocate revenues for the Commonwealth's share of supporting WMATA's capital and operating expenses. Many of these revenue reallocations would impact existing funding for the Northern Virginia Transportation Authority (NVRTA).

The Governor's amendments would continue to allocate revenues for WMATA but with a few changes. The Governor's amendments would allocate \$0.05 of the existing grantor's tax and provide a \$0.05 increase in the grantor's tax in the Northern Virginia Transportation District for WMATA and would retain a \$0.10 grantor's tax for NVTVA, thus partially restoring the funding cut in the enrolled bill. The amendments also increase the existing transient occupancy tax for transportation in Northern Virginia from two percent to three percent in the localities in the Northern Virginia Transportation District, with all of the three percent allocated to support WMATA. In the other Northern Virginia localities in which the transient occupancy tax is imposed, the rate would remain at two percent and the revenues would be retained by the localities to be used specifically for transportation purposes.

Technical and clarifying amendments are also included in the Governor's amendments. SB 856, which is identical as enrolled, has the same Governor's amendments.

HB 1595. Vested rights; existing landscape cover materials. The enrolled bill provides that, notwithstanding any local ordinance to the contrary, an owner of real property who has an occupancy permit issued as of January 1, 2018, shall not be required to retrofit existing landscape cover materials. The bill further provides that such owner shall not be prohibited from continuing to use, supplement, or refurbish existing landscape cover materials at such property. The Governor's amendment excludes from the provisions of the enrolled bill any (i) residential care facility operated by any state agency, (ii) assisted living facility licensed or subject to licensure pursuant to Chapter 18 (§ 63.2-1800 et seq.) of Title 63.2, (iii) student residence facility owned or operated by a public institution of higher education, (iv) building containing one or more dwelling units, (v) hotel or motel regularly used or intended to be used to provide overnight sleeping accommodations for one or more persons, or (vi) rooming house regularly used or intended to be used to provide overnight sleeping accommodations. SB 972, which is identical as enrolled, has the same Governor's amendments.

HB 1598. Standards and criteria for congressional and state legislative districts. The enrolled bill provides criteria by which state legislative and congressional districts are to be drawn, including equal population, racial and ethnic fairness, respect for existing political boundaries, contiguity, compactness, and communities of interest.

The Governor's amendments change the requirement that existing political boundaries be respected to the maximum extent possible, instead requiring that such boundaries be considered. The amendments also remove language explaining what political boundaries include and defining "clearly observable boundaries."

The Governor's amendments also make changes to the compactness criteria, deleting language that prohibits districts from being oddly shaped or having irregular or contorted boundaries. The requirement that the General Assembly employ one or more standard numerical measures of compactness is retained.

The Governor's amendments replace the criteria related to existing communities of interest. The enrolled bill allows for consideration to be given to communities of interest by creating districts that do not carve up homogeneous neighborhoods or separate groups of people living in an area

with similar interests or needs in transportation, employment, or culture. As amended, consideration of existing communities of interest is required by creating districts that do not carve up homogeneous neighborhoods or separate groups of people with similar social, cultural, or economic interests living in an area.

The Governor's amendments also add two additional criteria. First, state legislative or congressional districts are prohibited from being drawn to restrict or deny the ability of any racial or language minority to participate in the political process or to elect a preferred candidate of choice. Second, state legislative and congressional districts are prohibited from being drawn for the purpose of favoring or disfavoring any political party, incumbent legislator, member of Congress, or individual or entity.

The Governor also added technical amendments. HB 1598, which is identical as enrolled, has the same Governor's amendments.

Senate Bills

SB 106. Standards and criteria for congressional and state legislative districts. The enrolled bill provides criteria by which state legislative and congressional districts are to be drawn, including equal population, racial and ethnic fairness, respect for existing political boundaries, contiguity, compactness, and communities of interest.

The Governor's amendments change the requirement that existing political boundaries be *respected to the maximum extent possible*, instead requiring that such boundaries be *considered*. The amendments also remove language explaining what political boundaries include and defining "clearly observable boundaries."

The Governor's amendments also make changes to the compactness criteria, deleting language that prohibits districts from being oddly shaped or having irregular or contorted boundaries. The requirement that the General Assembly employ one or more standard numerical measures of compactness is retained.

The Governor's amendments replace the criteria related to existing communities of interest. The enrolled bill allows for consideration to be given to communities of interest by creating districts that do not carve up homogeneous neighborhoods or separate groups of people living in an area with similar interests or needs in transportation, employment, or culture. As amended, consideration of existing communities of interest is required by creating districts that do not carve up homogeneous neighborhoods or separate groups of people with similar social, cultural, or economic interests living in an area.

The Governor's amendments also add two additional criteria. First, state legislative or congressional districts are prohibited from being drawn to restrict or deny the ability of any racial or language minority to participate in the political process or to elect a preferred candidate of choice. Second, state legislative and congressional districts are prohibited from being drawn for the purpose of favoring or disfavoring any political party, incumbent legislator, member of Congress, or individual or entity.

The Governor also added technical amendments. HB 1598, which is identical as enrolled, has the same Governor's amendments.

SB 249. Taxation of all-terrain vehicles, mopeds, and off-road motorcycles. The Governor's amendments are technical. HB 1441, which is identical as enrolled, has the same Governor's amendments.

SB 267. Sexually violent predators; assessment protocol. The enrolled bill requires the Director of the Department of Corrections (the Director) to review a database of prisoners convicted of sexually violent offenses monthly and, using an evidence-based assessment protocol approved by the Director and the Commissioner of Behavioral Health and Developmental Services (the Commissioner), to identify all prisoners who appear to meet the definition of a sexually violent predator and are scheduled for release from prison within 24 months from the date of such review. The bill also requires the Commissioner to report to the Chairmen of the House Committees on Appropriations and Courts of Justice, the Senate Committees on Courts of

Justice and Finance, and the Crime Commission on (i) the assessment protocol approved by the Director and the Commissioner, including the specific screening instrument adopted and the criteria used to determine whether a prisoner meets the definition of a sexually violent predator and (ii) the number of prisoners screened and the number of prisoners identified as meeting the definition of a sexually violent predator and referred for assessment. The report shall also include a comparison of the number of prisoners identified as appearing to meet the definition of a sexually violent predator and referred for assessment in the previous year and the five years immediately prior thereto. The Governor's amendments make clear that the report to the Chairmen of the House Committees on Appropriations and Courts of Justice, the Senate Committees on Courts of Justice and Finance, and the Crime Commission will include information about assessments of both prisoners who appear to meet the definition of a sexually violent predator and are scheduled for release from prison within 24 months and defendants who have been charged with a sexually violent offense and found unrestorably incompetent to stand trial. The Governor's amendments also make a technical correction to correct a cross-reference.

SB 278. Eminent domain proceedings; payment of funds to attorney of owner. The enrolled bill provides that any funds due to the owner, whether such funds are in the possession of the court or are outstanding, shall be payable to the owner's attorney or, if no such attorney exists, to the owner, within 30 days of a settlement or final determination in an eminent domain proceeding. The Governor's Amendment in the Nature of a Substitute (i) states that funds may only be paid to the owner's attorney with consent of the owner and (ii) provides that the new payment requirements shall not be construed to alter the priority of liens or any obligation to satisfy or release any outstanding liens on the property or the funds.

SB 343. School boards; employment of certain individuals. The enrolled bill permits any school board to employ an individual who, at the time of the individual's hiring, has been convicted of a felony, provided that such individual (i) was employed in good standing by a school board on or before December 17, 2015; (ii) has been granted a simple pardon for such offense by the Governor or other appropriate authority; and (iii) has had his civil rights restored by the Governor or other appropriate authority. The Governor's amendment permits any school board to employ, until July 1, 2020, such an individual who has not been granted a simple pardon and has not had his civil rights restored, provided that such individual has been continuously employed by the school board from December 17, 2015, through July 1, 2018.

HB 1000, which is identical as enrolled, has the same Governor's amendment.

SB 378. Coal tax credits. The Governor's amendment adds a reenactment clause to the bill. HB 665, which is identical as enrolled, has the same Governor's amendment.

SB 405. Zoning for wireless communications infrastructure. The enrolled bill establishes parameters regarding applications for zoning approvals for certain wireless support structures. A Governor's amendment directs the Secretariats of Commerce and Trade and Public Safety and Homeland Security to convene a group of stakeholders to develop a plan for expanding access to wireless services in unserved and underserved areas of the Commonwealth. The Governor's other amendments (i) provide that the limit on the authority of a locality to condition or require

the approval of an application on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project applies only where it is the sole basis for such condition or requirement and (ii) replace three references to "nonpublic providers of cable television and electric service" with "other providers of functionally equivalent service." HB 1258, which is identical as enrolled, has the same Governor's amendments.

SB 526. Trespass; unmanned aircraft system; penalty. The enrolled bill provides that any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or harass another person or (ii) after having been given notice to desist, for any other reason, is guilty of a Class 1 misdemeanor. The enrolled bill also provides that any person who is required to register with the Sex Offender and Crimes Against Minors Registry who uses or operates an unmanned aircraft system to knowingly and intentionally (a) follow or contact another person without such person's permission or (b) capture images of another person without such person's permission when such images render the person recognizable is guilty of a Class 1 misdemeanor. Additionally, any respondent of a permanent protective order who uses or operates an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of any individual named in the protective order is guilty of a Class 1 misdemeanor. The enrolled bill also repeals the expiration of the prohibition on local regulation of privately owned, unmanned aircraft systems, clarifies the scope of such prohibition, and clarifies that such prohibition extends to all political subdivisions and not only to localities.

The Governor's amendments exempt local school boards from the prohibition on local regulation of privately owned, unmanned aircraft systems and require the Secretary of Commerce and Trade, in consultation with the Virginia Economic Development Partnership, to study the impact of the bill on unmanned aircraft research, innovation, and economic development in Virginia and report to the Governor and General Assembly no later than November 1, 2019. A Governor's amendment also clarifies part of the exemption to the crime of knowingly and intentionally causing an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house so that the exemption is limited to persons operating such systems for commercial purposes and in an otherwise lawful manner. HB 638, which is identical as enrolled, has the same Governor's amendments.

SB 631. Public institutions of higher education; course credit. The enrolled bill makes several changes relating to course credit at public institutions of higher education in the Commonwealth, including requiring (i) the Virginia Community College System to develop a 15-credit-hour Passport Program and a 30-credit-hour Uniform Certificate of General Studies Program to be offered at each comprehensive community college and for which courses are transferable, except in certain circumstances, to each baccalaureate public institution of higher education and (ii) each baccalaureate public institution of higher education to develop pathway maps that clearly set forth the courses that a student at a comprehensive community college is encouraged to complete prior to transferring to the baccalaureate institution. The Governor's Amendment in the Nature of a Substitute (a) makes numerous technical changes, (b) requires the Virginia

Community College System to establish the one-semester Passport Program and one-year Uniform Certificate of General Studies Program as required by the bill by July 1, 2020, (c) requires each associate-degree-granting public institution to offer such programs by the 2020-2021 academic year, and (d) repeals the second and third enactments of Chapter 521 of the Acts of Assembly of 2017. Chapter 521 created the passport program and the timeline and requirements of the second and third enactments are subsumed in this year's legislation. HB 919, which is identical as enrolled, has the same Governor's Amendment in the Nature of a Substitute.

SB 669. Involuntary mental health treatment; minors; access to firearms. The Governor's amendment adds an emergency clause to the bill.

SB 755. Pension de-risking; annuities. The enrolled bill limits the subsequent transfers of group annuity contracts that are purchased to fund retirement benefits pursuant to a pension de-risking transfer. The Governor's amendment eliminates the requirement that the State Corporation Commission approve any transfer or assumption of a retirement annuity contract by another insurer if the transfer is made to an assuming insurer that has a rating equivalent of A or better from two or more nationally recognized rating agencies.

SB 823. Wireless support structures; public rights-of-way use fees. The enrolled bill establishes an annual wireless support-structure public right-of-way use fee to be charged to wireless service providers and wireless infrastructure providers in connection with a permit to use a public right-of-way under the jurisdiction of the Virginia Department of Transportation or a locality. The Governor's amendments would limit the imposition of the fee only to the use of public rights-of-way under the jurisdiction of the Department of Transportation. HB 1427, which is identical as enrolled, has the same Governor's amendments.

SB 834. Voter registration list maintenance; voters identified as registered in multiple states. One provision of the enrolled bill requires the Department of Elections to provide to the general registrars a list of registered voters who have been found through list comparisons and data-matching exchanges with other states to be registered in another state. The Governor's amendments remove this requirement. The Governor's amendments do not affect other provisions of the bill.

SB 844. Health insurance; short-term plans. The enrolled bill authorizes health insurance carriers in the Commonwealth to offer short-term health plans with a duration of 364 days or less. The Governor's amendment provides that the enrolled bill shall not become effective unless reenacted by the 2019 Session but requires in due course for the Secretary of Health and Human Resources to convene a work group to examine recent trends in the individual insurance market and state options for stabilizing that market, including a review of innovative solutions that reduce individual insurance premiums and out-of-pocket costs while preserving access to comprehensive health insurance, and to report by December 1, 2018.

SB 856. Mass transit in the Commonwealth. The enrolled bill makes numerous changes to the administration of and revenues for mass transit in the Commonwealth, specifically relating to funding of the Washington Metropolitan Area Transit Authority (WMATA), the Virginia

Railway Express, and the disbursement of funds in the Commonwealth Mass Transit Fund. The enrolled bill used a variety of existing revenue sources to allocate revenues for the Commonwealth's share of supporting WMATA's capital and operating expenses. Many of these revenue reallocations would impact existing funding for the Northern Virginia Transportation Authority (NVTA).

The Governor's amendments would continue to allocate revenues for WMATA but with a few changes. The Governor's amendments would allocate \$0.05 of the existing grantor's tax and provide a \$0.05 increase in the grantor's tax in the Northern Virginia Transportation District for WMATA and would retain a \$0.10 grantor's tax for NVTA, thus partially restoring the funding cut in the enrolled bill. The amendments also increase the existing transient occupancy tax for transportation in Northern Virginia from two percent to three percent in the localities in the Northern Virginia Transportation District, with all of the three percent allocated to support WMATA. In the other Northern Virginia localities in which the transient occupancy tax is imposed, the rate would remain at two percent and the revenues would be retained by the localities to be used specifically for transportation purposes.

Technical and clarifying amendments are also included in the Governor's amendments. HB 1539, which is identical as enrolled, has the same Governor's amendments.

SB 902. Property tax exemption for solar energy equipment and facilities. The enrolled bill limits the property tax exemption for solar equipment and facilities owned and operated by a business, which exemption currently applies to 80 percent of the assessed value of certain projects, to those projects equaling less than 150 megawatts. The Governor's amendments clarify that the 150-megawatt cap applies only to projects for which an initial interconnection request form was filed on or after July 1, 2018.

SB 934. Benefits consortium. The enrolled bill authorizes an association organized as a nonstock corporation whose members are employers conducting business in the Commonwealth to sponsor a trust, or benefits consortium, to sell benefits plans to its members. The Governor's amendment provides that the enrolled bill shall not become effective unless reenacted by the 2019 Session but requires in due course for the Secretary of Health and Human Resources to convene a work group to examine recent trends in the individual insurance market and state options for stabilizing that market, including a review of innovative solutions that reduce individual insurance premiums and out-of-pocket costs while preserving access to comprehensive health insurance, and to report by December 1, 2018.

SB 935. Group health benefit plans; bona fide associations. The enrolled bill replaces references to "bona fide association," as used in provisions applicable to health care plans in the small employer market, with the term "sponsoring association," which is defined as a nonstock corporation that, among other conditions, has been actively in existence for 10 years, has at least five members, has been formed for purposes other than obtaining or providing health benefits, and operates as a nonprofit entity. The Governor's amendment provides that the enrolled bill shall not become effective unless reenacted by the 2019 Session but requires in due course for the Secretary of Health and Human Resources to convene a work group to examine recent trends

in the individual insurance market and state options for stabilizing that market, including a review of innovative solutions that reduce individual insurance premiums and out-of-pocket costs while preserving access to comprehensive health insurance, and to report by December 1, 2018.

SB 942. State sales and use tax; Historic Triangle. The enrolled bill imposes an additional one percent state sales and use tax in the City of Williamsburg and the Counties of James City and York. The tax would be imposed on all retail sales, including the sale of food. Half of the revenues generated would be used to promote the Historic Triangle Region as an overnight tourism destination, and the other half would be returned to the locality in which it was collected. A maintenance-of-effort requirement related to tourism spending would be imposed on the localities that receive these new revenues. The bill would also eliminate the existing \$2 per night transient occupancy tax that is currently imposed in these localities that is currently used for tourism purposes.

The Governor's amendments would not impose the one percent sales and use tax on the sale of food. The bill would also retain the existing \$2 transient occupancy tax but would direct the revenues to the new tourism fund established by the bill. Additionally, the maintenance-of-effort provision would require that funding by the localities to the Greater Williamsburg Chamber and Tourism Alliance be maintained, instead of just tourism funding in general. Technical amendments are also made.

SB 964. Health insurance; catastrophic health plans. The enrolled bill authorizes health carriers to offer catastrophic plans on the individual market and to offer such plans to all individuals, regardless of age or eligibility for a hardship exemption or affordability exemption, if the federal government approves a state innovation waiver allowing the implementation of the provision. The Governor's amendment provides that the enrolled bill shall not become effective unless reenacted by the 2019 Session but requires in due course for the Secretary of Health and Human Resources to convene a work group to examine recent trends in the individual insurance market and state options for stabilizing that market, including a review of innovative solutions that reduce individual insurance premiums and out-of-pocket costs while preserving access to comprehensive health insurance, and to report by December 1, 2018.

SB 972. Vested rights; existing landscape cover materials. The enrolled bill provides that, notwithstanding any local ordinance to the contrary, an owner of real property who has an occupancy permit issued as of January 1, 2018, shall not be required to retrofit existing landscape cover materials. The bill further provides that such owner shall not be prohibited from continuing to use, supplement, or refurbish existing landscape cover materials at such property. The Governor's amendment excludes from the provisions of the enrolled bill any (i) residential care facility operated by any state agency, (ii) assisted living facility licensed or subject to licensure pursuant to Chapter 18 (§ 63.2-1800 et seq.) of Title 63.2, (iii) student residence facility owned or operated by a public institution of higher education, (iv) building containing one or more dwelling units, (v) hotel or motel regularly used or intended to be used to provide overnight sleeping accommodations for one or more persons, or (vi) rooming house regularly

used or intended to be used to provide overnight sleeping accommodations. HB 1595, which is identical as enrolled, has the same Governor's amendments.

Governor's Vetoes

HB 110. Employees; franchisees excluded. The enrolled bill provides that, notwithstanding any voluntary agreement between the U.S. Department of Labor and the franchisee or franchisor, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisee's franchisor. The measure also provides that this exclusion does not apply with respect to a specific claim for relief made by a franchisee or a franchisee's employee if the franchisor has been found by a court of competent jurisdiction to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 110, which would categorically prohibit franchisees and their employees from classification as the employees of a franchisor.

This legislation undermines long-established principles of employment law, by removing the case-by-case, fact-based assessment to determine if an employee-employer relationship exists. House Bill 110 would relieve franchisor/employers, usually multi-state and multi-national corporations, of their obligations and responsibilities as an employer. These employer responsibilities and obligations would include guarantees of a healthy and safe workplace for all employees. Therefore, this legislation would create additional burdens upon the franchisee most of whom are small Virginia-based businesses.

House Bill 110 would undermine the efforts of small Virginia-based businesses and entrepreneurs to play a vital role in the Virginia economy by exempting franchisor-employers from their responsibilities.

Accordingly, I veto this bill."

HB 158. House of Delegates and Senate district boundaries. The enrolled bill authorizes the General Assembly to make technical adjustments to legislative district boundaries subsequent to the decennial redistricting solely for the purpose of causing legislative district boundaries to coincide with local voting precinct boundaries. Any adjustment shall change districts only to the extent necessary to accomplish this purpose and shall be consistent with the criteria for districts established for the preceding decennial redistricting. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 158. House Bill 158 authorizes the General Assembly to change legislative district boundaries outside of the decennial redistricting, in order to conform boundaries of legislative districts to the boundaries of local voting precincts.

This bill violates Article II, Section 6 of the Constitution of Virginia, which states: "The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2011 and every ten years thereafter." This bill would allow the General

Assembly to reapportion at any time of its choosing, regardless of the Constitutional mandate. This would jeopardize a Virginian's constitutional right to equal apportionment.

Accordingly, I veto this bill.”

HB 375. Prohibit certain local government practices that would require contractors to provide certain compensation or benefits. The enrolled bill prohibits local governing bodies from establishing provisions related to procurement of goods, professional services, or construction that would require a wage floor or any other employee benefit or compensation above what is otherwise required by state or federal law to be provided by a contractor to one or more of the contractor's employees as part of a contract with the locality. The prohibition shall not affect contracts between a locality and another party that were executed prior to January 1, 2019, or the renewal or future rebids of services thereof. The bill provides that localities shall not be prohibited from entering into contracts for economic development incentives in which the company receiving the incentives is required to maintain a certain stated wage level for its employees. The Governor's veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 375, which prohibits local governing boards from establishing provisions requiring a wage floor or any other employee benefit or compensation above what is otherwise required by state or federal law.

Local governments can require contractors to pay certain wage levels in contracts with localities. These initiatives have provided localities with qualified, high-skilled workers and contractors and successfully addressed significant cost-of-living and workforce disparities in these localities.

The ability of local governments to make this choice should be supported, not limited. Decisions regarding municipal contracts should be made by local leaders who fully understand local needs, and the needs of their workforce.

Accordingly, I veto this bill.”

HB 1167. Jury commissioners; lists of unqualified persons provided to general registrars. The enrolled bill requires jury commissioners to collect the information obtained from those persons not qualified to serve as jurors as a result of (i) not being a citizen of the United States, (ii) no longer being a resident of the Commonwealth, (iii) being a resident of another county or city in the Commonwealth, (iv) having been convicted of a felony and not having had voting rights restored, or (v) having been adjudicated incapacitated and disqualified to vote and not having had voting rights restored. The bill authorizes the sheriff, clerk of court, or other official responsible for maintaining such information provided by the commissioners to enter into an agreement with the general registrar for the locality to make that information available to that general registrar. The bill also requires the general registrars to use the information received to identify voters who are no longer qualified to vote and to initiate list maintenance procedures pursuant to current law. The bill has a delayed effective date of July 1, 2019. The Governor's veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1167, which would require jury commissioners to collect information from persons not qualified to serve as

jurors for specific reasons and subsequently make that information available to the general registrar of that locality. The bill would also require the general registrars who receive this information to initiate list maintenance procedures.

My Administration is committed to protecting the right to vote and ensuring that Virginia elections are conducted with integrity. There is no evidence or data that jury information is a reliable source for voter list maintenance. Relying on jury information to maintain our lists could weaken the veracity of our voter rolls and thus our elections. Furthermore, this unreliable information could endanger the registrations of eligible voters and prevent them from successfully casting a ballot.

House Bill 1167 could harm qualified voters and undermine the democratic process in the Commonwealth of Virginia.

Accordingly, I veto this bill.”

HB 1204. Real property tax; open space; special and separate assessment in certain counties. The enrolled bill requires the assessing official in any county that experienced at least a 14 percent increase in population from 2010 to 2016 to specially and separately assess real property that is devoted to open space use and that contains at least 20 acres on the basis of the actual physical use of the property, if requested to do so by the owner. The measure is effective for taxable years beginning on or after January 1, 2018. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1204, which requires the County of Arlington to assess two private country clubs within its boundaries as land dedicated to open space rather than its current method of highest and best use.

This is a local dispute over a local government’s method of assessing land for property taxation. As such, the solution to this dispute should be reached on the local level without the involvement of the state.

I have been assured that an agreement acceptable to both sides of this dispute is close to being reached. I encourage the parties to continue negotiations to find a solution so that similar legislation will not be necessary in the future.

Accordingly, I veto this bill.”

HB 1257. Sanctuary policies prohibited. The enrolled bill provides that no locality shall adopt any ordinance, procedure, or policy that restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, and after consulting with law enforcement and local stakeholder groups, I veto House Bill 1257, which imposes an unnecessary and divisive requirement upon localities regarding the enforcement of federal immigration laws.

This legislation would force local law enforcement agencies to use precious resources to perform functions that are the responsibility of federal immigration enforcement agencies. It also sends a

chilling message to communities across Virginia that could have negative impacts on public safety.

Localities have the right to determine whether to expend the resources and voluntarily enter into an agreement with the United States Immigration and Customs Enforcement Agency. Police divisions across the Commonwealth have a long tradition of engaging in community policing strategies, and many have determined that it is more important to develop a relationship with immigrant communities in order to keep all of those who live within the locality safe. This legislation would strip localities of that autonomy and force them to divert money and manpower away from their core public safety functions.

Were it to become law, this bill would send a clear message to people across this Commonwealth that state and local law enforcement officials are to be feared and avoided rather than trusted and engaged. The safety of our communities requires that all people, whether they are documented or not, feel comfortable reporting criminal activity and cooperating with local law enforcement investigations. This bill would make it harder for the men and women who keep us safe to do their jobs.

There are many actions we can take to support law enforcement and keep Virginians safe. Placing new unfunded mandates on state and local public safety agencies in order to make a political point is not one of them.

Accordingly, I veto this bill.”

HB 1270. Regional Greenhouse Gas Initiative; prohibition on participation by Commonwealth. The enrolled bill prohibits the Governor or any state agency from adopting any regulation establishing a carbon dioxide cap-and-trade program or bringing about the participation by the Commonwealth in a regional market for the trading of carbon dioxide allowances. The bill provides that the Commonwealth shall be allowed to participate in such a cap-and-trade program if the House of Delegates and the Senate of Virginia each adopt a resolution that specifically references and approves the regulatory text proposed for adoption by a state agency. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1270, which prohibits the Governor or any state agency from adopting any regulation establishing a carbon dioxide cap-and-trade program or establishing participation in the Regional Greenhouse Gas Initiative or any similar program without explicit majority vote approval by both houses of the General Assembly.

Climate change affects all citizens and business entities in the Commonwealth, especially those located in coastal regions. The Commonwealth must have all the tools available to combat climate change and protect its residents. These tools include the ability to adopt regulations, rules and guidance that mitigate the impacts of climate change by reducing carbon pollution in the Commonwealth. The Governor and state agencies should not be limited in their ability to protect the environment and in turn, the citizens of the Commonwealth.

Furthermore, this prohibition would tie Virginia's hands in the global race to lead the clean energy economy and create the jobs that come with it. A Commonwealth with our resources and workforce should be on the leading edge of this promising sector, not erecting barriers to innovation and economic growth.

Finally, the legislative veto set out in House Bill 1270 violates two provisions of the Virginia Constitution: Article III, Section 1 (Separation of Powers) and Article IV, Section 11 (Enactment of Laws).

Accordingly, I veto this bill."

HB 1568. Virginia Economic Development Partnership Authority; Department of Small Business and Supplier Diversity; small business development programs. The enrolled bill transfers the administration of the Small Business Jobs Grant Fund Program and the Small Business Investment Grant Fund from the Department of Small Business and Supplier Diversity to the Virginia Economic Development Partnership Authority. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1568, which transfers certain functions of the Department of Small Business and Supplier Diversity to another agency.

My administration worked with the bill patron during the session to address our concerns with House Bill 1568. While we made some progress, we did not resolve our concerns.

As I continue my term, I will review the performance of this and all of our executive branch agencies. As I said when I took office, I am committed to regulatory reform when appropriate, and I will be pleased to work with the bill patron and others on this very important matter.

Accordingly, I veto this bill."

SB 521. Reports of registered voters and persons voting at elections. The enrolled bill requires local electoral boards to direct general registrars to investigate the list of registered voters whenever the number of registered voters in a county or city exceeds the population of persons age 18 or older, based on the most recent population estimate of the Weldon Cooper Center for Public Service of the University of Virginia. The bill also requires the local electoral boards to direct the general registrars to investigate the list of persons voting at an election whenever the number of persons voting at any election in a county or city exceeds the number of persons registered to vote in that county or city. The Department of Elections is required to provide certain data to any general registrar conducting such an investigation for the registrar's use during the investigation. The bill requires local electoral boards to make reports of the findings to the State Board of Elections and requires such reports to be made public. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 521. Senate Bill 521 requires local electoral boards to direct their general registrars to investigate lists of registered voters anytime the number exceeds the number of persons age 18 or older in that city

or county. The bill would also require general registrars to investigate the lists of persons voting in an election when that number exceeds the number of registered voters in that city or county.

This legislation is unnecessary and places onerous responsibilities on local election officials. Virginia already has robust list maintenance procedures in place. The list maintenance system is a complex process of cross-referencing voter registration across the United States to ensure that voters are not registered in more than one location. The Department of Elections already uses information from the United States Postal Service, the Social Security Administration, the Interstate Voter Registration Crosscheck Program, and several other databases to ensure the maintenance of its voter lists.

In addition, I have concerns about the implementation of this bill. This legislation would give general registrars investigative authority they currently do not have, but provides no government oversight for how they exercise that authority. This could lead to privacy issues and potential legal challenges for electoral boards, general registrars and localities.

Accordingly, I veto this bill.”

SB 926. Office of the Attorney General; employment of special counsel. The enrolled bill limits the contingency fee that may be charged by special counsel employed by a state agency, depending on the amount recovered. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 926, which would impose arbitrary limits on contingency fees that may be charged by special counsel employed by a State agency or institution.

This Bill is particularly concerning with respect to the Office of the Attorney General. The Office of the Attorney General has a statutory duty to defend and uphold the rights of the citizens of the Commonwealth of Virginia. Sometimes that duty necessitates initiating broad complex litigation against large multistate corporations that are alleged to have reached into the Commonwealth and harmed our citizens. When the scope of litigation extends beyond the capacity of the Office of the Attorney General, the Office must retain the services of special counsel. In doing so, the Office must have the ability to hire the most talented and experienced legal counsel to represent the Commonwealth and protect our citizens. To do that, the Office needs a full range of tools with which to negotiate to ensure that the Commonwealth’s legal interests are being protected.

The use of a contingency fee arrangement to retain special counsel can be good for Virginia taxpayers. Contingency fees are only awarded upon the successful outcome of litigation. Therefore, the use of contingency fees benefits the Commonwealth and taxpayers at no cost to either. An edict to limit the availability of this fee arrangement hinders the Commonwealth’s ability to successfully prosecute violations of state law.

Senate Bill 926 would weaken the Commonwealth’s bargaining positions and restrict its potential recovery against those who harm Virginia residents.

Accordingly, I veto this bill.”

Bills Returned by the Governor (1999-2018)

Session	Governor	Amendments	Vetoes*	Total Sent to Governor
1999	Gilmore	118	13	1,062
2000		60	16	1,089
2001		91	7	882
2002	Warner	74	1	899
2003		87	4	1,046
2004		60	2	1,035
2005		45	1	949
2006	Kaine	123	7	958
2007		106	10	958
2008		36	1	889
2009		101	12	886
2010	McDonnell	102	0	871
2011		132	5	892
2012		113	7	855
2013		85	6	812
2014	McAuliffe	57	5	834
2015		68	17	800
2016		57	29	811
2017		83	40	880
2018**	Northam	60	10	874

*This column represents the number of vetoes considered by the General Assembly during the Regular and Reconvened Sessions for each year. The final number of vetoed bills can be found in the Legislative Information System statistics for each session.

**The seven bills returned with Governor's amendments and acted upon during the 2018 Regular Session are included in these totals but are not summarized in the Governor's Amendments and Vetoes sections of this publication. In addition, amendments to the Budget Bill are not summarized in this publication.