

## Legislative Update

2009 Bills of Interest to Local Government: Failed



Presented to the  
Commission on Local Government  
March 9, 2009

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### 1. Charter

#### **HB 1733 Charter; County of Chesterfield.**

*Summary as introduced:* **Charter; County of Chesterfield.** Adds provisions to the charter of Chesterfield County requiring the salary of the clerk of the circuit court to be paid out of the general fund of the county. Likewise, the expenses of the office of the clerk of the circuit court, including the compensation of the deputies and employees of the office, shall be paid out of the general fund of the county. All clerk's fees and commissions received by the clerk of the circuit court for the performance of the clerk's official duties pursuant to statute and local ordinance shall be paid into the general fund of Chesterfield County. *Patron:* Cox. See also SB 942 (Watkins).

### 2. Conflict of Interests Act

#### **HB 1616 Conflict of Interests Act, State & Local Government; disclos. by certain members of advisory agency.**

*Summary as introduced:* **State and Local Government Conflict of Interests Act; disclosure by certain members of advisory agencies.** Requires nonsalaried citizen members of any board, commission, or council established by the governing body to advise on land use policies within the locality to file, as a condition of assuming office, a disclosure form of their personal interests. The bill also requires such members to make annual disclosures of all their interests in real estate located in the county, city, or town in which they are appointed and requires such individuals to disqualify themselves from participating in any transaction involving their real estate interests. *Patron:* Marshall

#### **SB 1551 Conflict of Interests Act, State and Local Gov.; disclosure by certain nonsalaried citizen members.**

*Summary as introduced:* **State and Local Government Conflict of Interest Act; disclosure by certain nonsalaried citizen members of local government entities.** Clarifies that a local governing body may require the nonsalaried citizen members of any board, commission, or council it has created to file a disclosure of the member's personal interests as a condition of assuming office and to annually file such disclosure every January 15. *Patron:* Barker

### **3. Elections / Voting**

#### **HB 1620 Early voting; qualified registered voter may vote in person from 14 to three days before election.**

*Summary as introduced:* **Elections; early voting.** Provides that any registered voter qualified to vote in the election may vote in person from 14 to three days before the election (or eight to three days before a special election) at specified times and at the sites provided in the locality. The provisions for absentee voting remain in effect except that the provisions for in-person absentee voting are superseded by the early voting process during the early voting period. The bill takes effect January 1, 2010. *Patron:* Dance. See also HB 1644 (Ware, O) and SB 819 (Lucas).

#### **HB 1621 Absentee voting; qualified voters may vote absentee for any reason, special provisions for military.**

*Summary as introduced:* **Elections; absentee voting.** Provides that qualified voters may vote absentee for any reason. The bill eliminates the present statutory list of specific reasons entitling a voter to cast an absentee ballot. Several special provisions concerning military and overseas absentee voters and disabled voters are consolidated in two new provisions. This bill is identical to HB 2301 and SB 1010 as introduced. *Patron:* Dance. See also HB 1894 (Dance) and SB 810 (Howell).

#### **HB 1780 Elections, special; filling vacancies in certain local offices.**

*Summary as passed House:* **Elections; filling vacancies in certain local offices; special elections.** Provides that vacancies in a governing body or elected school board shall be filled at the next ensuing November or May general election notwithstanding any other statutory or charter provision to the contrary; thus overriding charter provisions that may allow a governing body or school board to appoint a person to serve the entire remaining portion of a term. In the case of a vacancy in a local governing body, the local governing body may request a special election on a date prior to the next general election. *Patron:* Athey

#### **HB 2496 Early voting pilot projects; State Board of Elections to establish for general elections in 2010.**

*Summary as introduced:* **Elections; early voting pilot projects.** Authorizes the State Board of Elections to establish early voting pilot projects for general elections in 2010 and 2011 in counties or cities choosing to participate. Provides that any registered voter may vote in person from 17 to three days before the election at specified times and at the sites provided in the locality. The provisions for absentee voting remain in effect except that the provisions for in-person absentee voting are superseded by the early voting process during the early voting period. *Patron:* Alexander

#### **4. Energy**

##### **HB 2009 Incandescent light bulbs; bans sale or distribution in State, effective July 1, 2010.**

*Summary as introduced:* **Incandescent light bulbs.** Bans the sale or distribution in the Commonwealth, effective July 1, 2010, of any general purpose incandescent light bulb. The Board of Agriculture and Consumer Services is authorized to adopt regulations to exempt types of light bulbs from the ban if it finds that the ban creates a significant hardship on the user or is unreasonable because of the lack of an adequate substitute. A violation of the ban is a Class 1 misdemeanor. *Patron:* Ebbin

##### **HB 2387 Green Public Buildings Act; certain new or renovated buildings to be built to certain standards.**

*Summary as introduced:* **Green Public Buildings Act.** Requires public bodies entering the design phase for construction of a new building greater than 5,000 gross square feet in size, or renovating such a building where the cost of renovation exceeds 50 percent of the value of the building, to build to either the Green Globes Green Building Initiative green building rating standard or the United States Green Building Council Leadership in Energy and Environment Design green building rating standard (LEED). Exemptions from the requirement may be granted by the Director of the Department of General Services for state construction projects or the governing body of a locality or school board for local projects. *Patron:* Ebbin. See also SB 1252 (Petersen).

##### **SB 1253 Electric service; prohibits electric utilities from charging public schools for service provided.**

*Summary as introduced:* **Electric service provided to public schools and libraries.** Prohibits electric utilities from charging public schools and libraries for service provided to them. *Patron:* Deeds

#### **5. Governmental Transition**

##### **SB 1178 Independent cities; eliminates presumption that all are independent by deleting word in statutes.**

*Summary as introduced:* **Independent cities.** Eliminates the presumption that all cities are independent cities by deleting the word "independent" in numerous statutes. *Patron:* Watkins

**SJ 335 Constitutional amendment; removes requirement that cities be established as entity independent.**

*Summary as introduced:* **Constitutional amendment (first resolution); independent cities.** Removes the requirement that cities be established as an entity independent of other local governments. *Patron:* Watkins

**SJ 346 Local government; joint subcommittee to study organization thereof.**

*Summary as passed Senate:* **Study; joint subcommittee to study local government reorganization; report.** Establishes a nine-member joint subcommittee to recommend methods for modernizing local government structure and organization. This is a two-year study. *Patron:* Vogel

**6. Land Use**

**HB 2125 Zoning; person to post sign notifying public of place & time of public hearing regarding property.**

*Summary as introduced:* **Planning or zoning matters; notice by applicant.** Allows a locality to require, by ordinance, that a person applying to the local governing body, local planning commission or board of zoning appeals for a planning or zoning matter shall post a sign notifying the public of the place and time of the public hearing regarding his property, the cost of which may be paid by the applicant. The locality shall specify any additional information to be on the sign, as well as the size and placement of the sign. *Patron:* Byron. See also SB 1308 (Hurt).

**HB 2613 Cash proffers; requires localities to phase out acceptance thereof.**

*Summary as introduced:* **Cash proffers; phase out.** Requires localities to phase out the acceptance of cash proffers by July 1, 2014. *Patron:* Hall

**HB 2653 Zoning ordinance enforcement; not to be charged therewith unless locality provided written notice.**

*Summary as passed House:* **Zoning ordinance enforcement; tenants of single-family dwellings.** Provides that localities may enforce violations of the zoning ordinance by tenants of single-family residential dwellings; however, the owner of such dwelling shall not be charged with a zoning violation unless the locality has provided written notice of the tenant's conduct to the landlord. *Patron:* Bulova

**HJ 725 Constitutional amendment; taking of private property for public uses (first reference).**

*Summary as passed House:* **Constitutional amendment (first resolution); taking of private property for public uses.** Limits the exercise of eminent domain to the purpose of public use and specifies that, with the exception of takings for the provision of any utility or common carrier service, property can only be taken or damaged where the primary purpose is not private financial gain, private benefit, an increase in tax base or tax revenues, or an increase in employment. No more private property may be taken than that which is necessary to achieve the stated public use. Whenever an attempt is made to take or damage property for a stated public use, the owner shall have the right to a judicial determination that the use is truly public, without regard to any legislative assertion that the use is public. This resolution incorporates HJ 728. *Patron:* Bell

**SB 1423 Subdivision ordinances; requirement that each locality provide a checklist to potential developers.**

*Summary as introduced:* **Subdivision ordinances.** Provides that such ordinances shall include a requirement that each locality provide a checklist to potential developers that specifies what shall be shown on the development plans along with the legal authority for such requirement. *Patron:* Martin (by request)

**SB 1536 Subdivision ordinances; landlocked property.**

*Summary as introduced:* **Subdivision ordinances; landlocked property.** Requires localities to include in their subdivision ordinances that in any instance in which the subdivision of land results in a landlocked property, the locality shall require a minimum 20-foot right-of-way from such property to a state highway. *Patron:* Ruff

**SJ 290 Constitutional amendment; establishes limitations on takings of private property.**

*Summary as introduced:* **Constitutional amendment (first resolution); taking of private property for public uses.** Establishes limitations on takings of private property. Except for property taken for public service companies or railroads, property may not be taken if the primary purpose of the taking is private financial gain, private benefit, an increase in tax base or tax revenues, or an increase in employment. No more property shall be taken than is necessary to achieve the stated public use. *Patron:* Obenshain

## **7. Mandates**

### **HB 2354 Suspension of mandates; requires Governor to temporarily suspend on locality facing fiscal stress.**

*Summary as passed House:* **Governor; suspension of mandates.** Provides that, notwithstanding the Governor's authority to temporarily suspend state mandated, school divisions shall not be required to meet mandated staffing ratio requirements for the programs funded by the Lottery Proceeds Fund for the fiscal year ending June 30, 2010. The bill also provides that state funds for such programs must be used for the stated program purposes. In addition, for the fiscal year ending June 30, 2010, school divisions will not be required to provide matching funds for the programs funded through (i) the Lottery Proceeds Fund, (ii) the Virginia Public School Authority, or (iii) to purchase textbooks. The provisions of the bill will expire on July 1, 2010. *Patron:* Landes

## **8. Public Meetings / Notices / Procurement**

### **HB 1879 Government, local; alternatives to publication of notices for charter changes, referenda, etc.**

*Summary as introduced:* **Local government; publication of notices for charter changes, referenda, and public hearings, etc; alternatives.** Gives localities with a population over 100,000 alternatives to publication in newspaper of general circulation in the locality. These alternatives include publication in a newspaper of general circulation in the locality, on the locality's website, or on any public access channel operated by the locality, to be aired during prime time programming and at least two other times during the day. Any electronic publication shall be aired daily for two consecutive weeks. *Patron:* Cosgrove. See also HB 2355 (Landes).

### **SB 1072 Prayer at public events; governmental agency shall have no authority to regulate religious content.**

*Summary as introduced:* **Prayer at public events.** Provides that whenever a individual is requested to provide a prayer, invocation, or benediction at a public event that is sanctioned by a governmental agency, such governmental agency shall have no authority to regulate how that individual refers to God in prayer or prohibit the religious content of the individual's prayer, invocation, or benediction, provided such prayer, invocation, or benediction is not used to advance a particular religion or to disparage another faith or belief. *Patron:* Martin

### **HB 2628 Public Procurement Act; cooperative procurement.**

*Summary as passed House:* **Virginia Public Procurement Act; cooperative procurement.** Provides that no local public body shall purchase construction in excess

of \$200,000 from another public body's contract that is more than 75 miles in distances from the local public body procuring the construction. *Patron:* Griffith

## **9. Public Safety**

### **SB 1053 Government facilities; local government may by ordinance, make unlawful to possess dangerous weapon.**

*Summary as introduced:* **Dangerous weapons in government facilities.** Provides that the governing body of any locality may, by ordinance, make it unlawful for any person to possess a dangerous weapon upon the property, including buildings and grounds thereof, of any facility that is owned or leased by that locality and used by it for governmental purposes. *Patron:* Whipple. See also HB 1910 (BaCote) and SB 832 (Locke).

## **10. Taxation / Fees / Finance**

### **HB 1669 Income tax, state; State shall return to cities & counties 50% of growth in collections.**

*Summary as introduced:* **Individual income tax; sharing with localities.** Provides that the Commonwealth shall return to cities and counties 50 percent of the growth in income tax collections for each city or county. The amounts returned shall be expended for school construction costs and transportation needs of the cities and counties. *Patron:* Albo

### **HB 2018 School Construction Revolving Fund; created.**

*Summary as introduced:* **Public schools; financing.** Creates the Virginia School Construction Revolving Fund for financing elementary, secondary, or vocational education school projects. *Patron:* Rust. See also SB 1226 (Barker).

### **HB 2063 Triennial census of school population; sales and use tax distribution.**

*Summary as passed House:* **Triennial census of school population; sales and use tax distribution.** Eliminates the requirement that every three years a census of all school-age persons residing within each school division take place. Also eliminates all related requirements regarding appointment and compensation of persons taking census, agents, and census results. Amends the procedure regarding sales and use tax distribution to localities so that distribution is based on the average daily membership of the school division rather than the school-age population of a school division. This bill has a delayed effective date of July 1, 2011. *Patron:* Hamilton. See also SB 1342 (Reynolds).

### **HB 2205 BPOL taxes; repeals local business taxes.**

*Summary as introduced:* **BPOL taxes; repeal.** Repeals local business license (BPOL) taxes. *Patron:* Frederick

### **HB 2383 Tax and fee discounts and allowances; eliminates dealer tax and fee discounts and allowances.**

*Summary as introduced:* **Tax and fee discounts and allowances.** Eliminates dealer tax and fee discounts and allowances for the retail sales and use tax, tire recycling fee, communications sales and use tax, cigarette and tobacco products tax, E-911 service tax, and fuels taxes. *Patron:* Scott, J.M.

### **HB 2389 Cigarette tax and tobacco products tax; increased.**

*Summary as introduced:* **State cigarette tax and tobacco products tax.** Increases the state cigarette tax from 1.5 cents per cigarette to 3 cents per cigarette, adds a \$0.25 per ounce tax on each can or package of moist snuff, and eliminates the stamping agent discount and the dealer discount. *Patron:* Brink. See also SB 947 (Howell).

### **HB 2601 Real estate tax; notice of change in assessment.**

*Summary as introduced:* **Real property tax; notice of change in assessment.** Requires that the notice of a new assessment (i) be sent to the taxpayer at least 30 days prior to the date of a hearing to protest the assessment, and (ii) contain specific information regarding the new tax levy and the prior year's tax levy. *Patron:* Massie. See also SB 1514 (Smith).

### **HJ 686 Constitutional amendment; certain property exempt from taxation (first reference).**

*Summary as introduced:* **Constitutional amendment (first resolution); property exempt from taxation.** Provides that the General Assembly may enact legislation that will authorize localities by ordinance to exempt from property taxes up to 20 percent of the value of each residential or farm property that is the individual owner-occupants' primary dwelling and lived in continuously. This amendment is identical to SJR 333. *Patron:* Brink

### **HJ 709 Constitutional amendment; assessments of real property and tax rates (first reference).**

*Summary as introduced:* **Constitutional amendment (first resolution); assessments of real property and tax rates.** Provides that assessments of real property shall not increase annually by more than one percent plus the percentage increase, if any, in the rate of

inflation. Increases in the rate of taxation on real property are limited to one percent per year. *Patron:* Frederick

**HJ 710 Constitutional amendment; spending limits on government (first reference).**

*Summary as introduced:* **Constitutional amendment (first resolution); spending limits on government.** Provides for annual state and local government spending limits with surplus revenues returned to taxpayers. *Patron:* Frederick

**SB 979 Fuel fee; allows authorities to pass an ordinance to impose a fee on motor vehicle violations.**

*Summary as introduced:* **Transportation; fuel fee.** Allows authorities to pass an ordinance that would impose a fee, not to exceed \$10, on all motor vehicle violations. Such fee shall go to the locality for the purpose of purchasing fuel for local law-enforcement vehicles. *Patron:* Stuart

**SB 1131 Notice for setting local real property tax rate; public notice required for increasing rate.**

*Summary as introduced:* **Notice for setting local real property tax rate.** Reduces from 30 days to 10 days the public notice required by localities under certain circumstances for increasing the local real property tax rate above the rate that would generate 101 percent of the prior year's real property tax revenues. *Patron:* Petersen

**SB 1175 Property owned by locality; Cumberland County may levy and collect service charge.**

*Summary as introduced:* **Taxation of property owned by locality.** Provides that a service charge may be levied upon a county, city or town owning real or personal property within the boundaries of another locality. The service charge shall be equal to the amount that would be assessed as taxes on real property as if such property were otherwise subject to tax valuation and assessment. *Patron:* Watkins

**SB 1386 Jail construction, local and regional; adjusts state reimbursement therefor.**

*Summary as passed Senate:* **State reimbursement for local and regional jail construction.** Eliminates the state reimbursement to localities of a percentage of the capital costs of local and regional jail construction. The changes to the reimbursement will not apply to projects approved by the Board of Corrections on or before June 1, 2009, or to any facility that was completed and accepting inmates as of May 1, 2009. *Patron:* Stolle

**SJ 349 Constitutional amendment; localities to cap annual increase in assessed values of real estate.**

*Summary as introduced:* **Constitutional amendment (first resolution); property tax assessments.** Authorizes localities to cap the annual increase in assessed values of real estate at no more than 25 percent or a greater percentage set by the ordinance. The real estate will be reassessed at fair market value in the year in which it is sold, improved, or otherwise changes hands. *Patron:* Newman

**SJ 353 Local government; distribution of state and local taxes therefor.**

*Summary as introduced:* **Study; distribution of taxes to local governments; report.** Establishes a joint subcommittee to study the processes and the accuracy of the distribution of local taxes and state taxes collected by state entities for local governments. *Patron:* McEachin

**11. Transportation**

**HB 1728 Road impact fees; allows localities to reduce or exempt fee for commercial development.**

*Summary as introduced:* **Road impact fees; commercial development.** Allows localities to reduce or exempt the road impact fee for commercial development. *Patron:* Cole

**HB 1861 Street maintenance payments; increased where traffic volumes exceed statewide average by 20%.**

*Summary as introduced:* **Street maintenance payments.** Provides for increased payments where traffic volumes exceed the statewide average by more than 20 percent. *Patron:* Shannon

**HB 1993 Highway maintenance funds; requirements for Commonwealth Transportation Board in allocating.**

*Summary as introduced:* **Allocation of maintenance funds among highway systems.** Requires the Commonwealth Transportation Board, in allocating highway maintenance funds, to achieve a minimal level of disparity among VDOT's highway construction districts in meeting asset management performance standards established under § 33.1-13.02. *Patron:* Bulova

**HB 2194 Motor fuels tax; rate increase used for transportation purposes.**

*Summary as introduced:* **Motor fuels tax; rate increase; allocation of construction funds for primary highway system.** Increases the motor fuels tax by \$0.10 per gallon,

minus \$0.01 for each \$0.20 that the average price of gasoline exceeds \$3.00. The tax will be indexed every two years beginning July 1, 2010, by an amount equal to the percentage change in the U.S. Department of Labor's Producer Price Index for Highway and Street Construction. The revenue generated is used for transportation purposes as required by existing law, and allocates primary system highway construction funds among the nine highway construction districts on the basis of the ratio of vehicle miles traveled on primary highways divided by the lane miles of primary highways in each highway construction district, weighted 90 percent, and a need factor, weighted 10 percent.

*Patron:* Watts

## **HJ 620 Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund, etc.**

*Summary as passed House:* **Constitutional amendment (first resolution);**

**Transportation Funds.** Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, and other funds established by general law for transportation. All revenues dedicated to Transportation Funds on January 1, 2011, by general law, other than a general appropriation law, shall be deposited to the Transportation Funds, unless the General Assembly by general law, other than a general appropriation law, alters the revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan must be repaid with reasonable interest within four years. This resolution incorporates HJR 720. *Patron:* Oder. See also SJ 361 (Norment).