## Legislative Summary

### 2013 SESSION VIRGINIA GENERAL ASSEMBLY

**APRIL 24, 2013** 

### HANOVER COUNTY LEGISLATIVE AGENDA 2013 General Assembly Session

### **2013 Legislative Agenda Action Items**

- Request a budget amendment to eliminate the \$95 million biennial reduction in State Aid to Localities.
- Request that the General Assembly fully fund the Line of Duty Act benefits for law enforcement and public safety personnel as it did from the time that the General Assembly created these benefits in 1995 until the 2012 fiscal year.
- Request that the General Assembly structure the payment of VRS benefits for state funded teacher salaries in such a way that the state will continue to bear responsibility for any unfunded liabilities accruing for these benefits under General Accounting Standards Board Statement 68.
- Request legislation to permit counties that have implemented land use assessment to designate specific areas within which land use assessment will not be applicable.
- Request an amendment to Va. Code § 33.1-1 to add a third urban at-large seat to the Commonwealth Transportation Board to be filled by a resident of the Richmond-Petersburg Metropolitan Statistical Area. Historically, the two urban at-large seats have been filled with citizens residing in the Northern Virginia and Hampton Roads areas.

### HANOVER COUNTY LEGISLATIVE AGENDA 2013 General Assembly Session

### **2013 Legislative Agenda Action Items** (Continued)

- Request an amendment to Va. Code § 62.1-44.15:1.2 to clarify that any impoundment release reductions shall not adversely affect the permit limits for downstream activities permitted by the Virginia Department of Environmental Quality.
- Because the state has assigned to local governments primary responsibility for the stormwater quality programs and facilities necessary to achieve the Chesapeake Bay Total Daily Maximum Load requirements, request legislation (1) to require that the state provide a substantial and fair share of the funding required to implement these programs and (2) provide localities with appropriate tools for raising the additional revenue required to comply with the mandate.
- Request an amendment to Va. Code § 33.1-23.03:10 to require that prior approval of the General Assembly shall be obtained prior to the imposition and collection of tolls on any interstate highway in Virginia.
- Request an amendment to Article 1.1 of Title 33.1 of the Code of Virginia to require that the Department of Transportation confer with local representatives regarding the priority of projects involving substantial expenditure of maintenance funds within each locality.

### HANOVER COUNTY LEGISLATIVE AGENDA 2013 General Assembly Session

### Positions on Legislation Anticipated to Come before the 2013 Session

- Support legislation that would provide counties with the same local taxing authority as cities in order that counties might reduce their dependence on real estate and personal property taxes.
- Support maintaining current authority for machinery and tools taxes and business professional occupation license taxes unless alternative and equivalent additional revenue sources are made available to localities.
- Support current provisions in state laws that limit the categories of students whose parents do not reside in Hanover for whom Hanover is mandated to provide free public education.
- Support legislation that would assure local government authority to apply zoning laws and comprehensive plans to all private businesses, including liquor stores and assisted living facilities.
- Support maintenance of the existing provisions of Va. Code § 22.1-79.1 governing the date for the opening of the school year.
- Support legislation that would prohibit private ownership of dangerous, wild animals, except for licensed zoos, research facilities and animal sanctuaries.

# **Passed Legislation**

#### SB 960 Public schools; residency of children in kinship care.

Amends § 22.1-3 to allow a child receiving kinship care from an adult relative to enroll in the school division where the kinship care provider resides. The bill also allows local school divisions to require one legal parent and the kinship care provider to sign affidavits detailing the kinship care arrangement as well as a power of attorney authorizing the adult relative to make educational decisions regarding the child. The provisions of this bill will sunset on June 30, 2016.

### HB 1337 Polling place procedures; voter identification to be current, valid, and contain photograph.

Amends §§ 24.2-643 and 24.2-701 to remove utility bill, bank statement, government check, paycheck and social security card from the list of acceptable identification documents that a voter must present when voting at the polls on election day. The bill also requires that all forms of acceptable identification contain a photograph of the voter or the voter's name and address. The bill has a delayed effective date of July 1, 2014, and its provisions are contingent upon funding being included in a general appropriation act passed by the 2014 Session of the General Assembly.

### HB 1339 Election districts & redistricting; locality permitted to exclude from census correctional facility.

Amends § 24.2-304.1 to permit any county, city, or town governing body to exclude from the census population used in decennial redistricting the adult inmate populations of federal, state, or regional adult correctional facilities located in the localities. Current law allows the exclusion of such inmate populations only if they exceed 12 percent of the ideal population of a local election district.

### SB 1256 Voter identification requirements; photo ID required at polls, application for absentee ballot.

Amends §§ 24.2-404, 24.2-411.1, 24.2-643, and24.2-701 to require photo ID at the polls by eliminating all forms of identification that do not contain a photograph of the voter from the list of forms of identification any one of which a voter must present in order to be allowed to vote. The bill also adds a valid United States passport to the list and requires that a student identification card issued by an institution of higher education in the Commonwealth contain a photograph in order to be used by a voter. The bill does not affect the right of a voter who does not present one of the required forms of identification to cast a provisional ballot. The bill also provides that the State Board shall provide free voter registration cards that contain a voter's photograph and signature if the voter does not possess other satisfactory photo ID. The bill has a delayed effective date of July 1, 2014, and its provisions are contingent upon funding being included in a general appropriation act passed by the 2013 Session of the General Assembly.

#### HB 2048 Water quality; transfer of responsibility for administration of programs.

Amends §§ in Titles 2.2, 3.2, 10.1, 15.2, 33.1, 36, 58.1, 62.1, adds §§ in Title 62.1 and repeals §§ in Title 10.1 to move several water quality programs currently administered by the Department of Conservation and Recreation to the Department of Environmental Quality, thereby consolidating the state's oversight and enforcement into one agency. SB 1279 is identical.

### HB 2190 Stormwater management ordinances; requires localities to adopt more stringent requirements, etc.

Amends § 10.1-603.7 to require local governments to accept state-approved stormwater controls even if a locality determines that the state approach is inadequate. For example, local governments sometimes determine that state-approved stormwater controls that technically meet water quality standards are either unsafe or difficult and expensive to maintain.

### HB 2026 Virginia FOIA; remote participation in meeting by member of public body.

Amends § 2.2-3708.1 to allow a member of a public body to participate in a meeting by electronic communication means due to personal matters under certain circumstances. Currently, such remote participation is allowed only for emergency, medical condition, or distance from the meeting location of more than 60 miles. The bill is a recommendation of the Virginia Freedom of Information Advisory Council.

### HB 1646 Comprehensive services for at risk youth and families; eligibility for state pool of funds.

Amends §§ in Titles 2.2 and 63.2 to require local social services departments to offer independent living services to young people in foster care 17 who are between the ages of 18 and 21 and who are in the process of making the transition from foster care to self-sufficiency. Before, it was a local option for local department of social services to offer independent living services to this particular group of young people. Ultimately, it is up to the young person as to whether or not he/she will partake in independent living services after turning 18 years of age. Foster care services, including independent living services, are paid for through the Comprehensive Services Act for At-Risk Youth and Families, and as such require a local match.

#### HB 1859 Rabies; local governing body to hold clinic at least once every two years.

Amends § 3.2-6521 to require any city or county to ensure that a rabies clinic is conducted to serve the jurisdiction at least once every two years. Currently, a clinic is to be held once a year if the local government finds that the number of resident veterinarians is inadequate to meet the need for rabies vaccination. Such clinics can be conducted by a non-profit or other non-governmental agency on behalf of the city or county.

### SB 931 Dead bodies; notification for disposition to next of kin to claim body within 30 days of notice.

Amends § 32.1-288 to provide that in cases in which the next of kin of a deceased person fails or refuses to claim the body of the deceased person within 30 days, the sheriff or other person having initial custody of the dead body may dispose of the body, and provides that, absent bad faith or malicious intent, a sheriff who accepts a dead body for disposition shall be immune from civil liability.

### HB 1419 Family health care structures, temporary; zoning provisions, extends time structure must be removed.

Amends § 15.2-2292.1 to amend requirements governing zoning ordinances for temporary family health care structures by altering the occupancy restriction to allow a married couple, under certain conditions, to reside in a temporary family health care structure and by extending the time by which a temporary family health care structure must be removed from 30 to 60 days from the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving or in need of assistance.

#### **HB 2072 Condemnation; local application process.**

Amends § 15.2-1901 to provide that no locality shall condition or delay the timely consideration of any application for or grant of any permit or other approval for any real property over which it enjoys jurisdiction for the purpose, expressed or implied, of allowing the locality to condemn or otherwise acquire the property or to commence any process to consider whether to undertake condemnation or acquisition of the property.

### HB 2265 Cash proffers; locality may waive certain written notice requirements to reduce outstanding payment.

Amends § 15.2-2302 to provide that a locality may waive certain written notice requirements in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

#### HB 2306 Eminent domain; just compensation paid for real property, tax assessments.

Amends §§ 25.1-204, 25.1-305, 25.1-417, 33.1-89, and 33.1-120 to provide that in eminent domain, for the offer made to the owner, and for the payment into court before going onto the land, where the entire parcel is to be acquired, the assessed value of land will be the basis if the assessed value is higher than the current appraisal. Nothing in the bill makes evidence of tax assessments admissible as proof of value in an eminent domain proceeding.

### HB 1642 Rights of parents; fundamental right to make decisions concerning care, etc., of their children.

Adds § 1-240.1 to provide that a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child. The bill further provides that the provisions of the bill codify the opinion of the Supreme Court of Virginia in *L.F. v. Breit*, issued on January 10, 2013, as it relates to parental rights. SB 908 is identical.

### HB 1562 Dangerous and vicious dogs; when owner is charged with a violation, officer shall confine dog, etc.

Amends and adds §§ in Title 3.2 to authorize an animal control officer or law-enforcement officer to apply to a magistrate for a summons where the officer believes that the owner of a vicious dog has willfully failed to comply with the law. When the owner of a dangerous dog has willfully failed to comply with the law, the bill authorizes an officer to confine the dog. The bill also clarifies the distinctions between dangerous dogs and vicious dogs, requires the owner of either type of dog to provide basic care while confining the animal, and authorizes a court to order the owner to pay for the care of a dangerous or vicious dog while it is in state custody. SB 828 is identical.

### HB 2012 Drones; moratorium on use of unmanned aircraft systems by state and local law enforcement, etc.

An Act to place a moratorium on the use of unmanned aircraft systems by state and local law enforcement and regulatory entities that enforce regulatory violations until July 1, 2015 except in cases where a person is in immediate danger and for training exercises for such use. The bill would not apply to institutions of higher learning or research organizations that use drones for research and development purposes. The bill will also require the Department of Criminal Justice Services to help develop guidelines for the appropriate use of drones by law enforcement agencies in the future. SB 1331 is identical.

### HB 1401 Real property tax; collection of delinquent taxes, notice to taxpayer regarding payment agreement.

Amends § 58.1-3965 to require that, prior to initiating judicial proceedings to sell real property because of delinquent taxes, the locality must notify the taxpayer that he has the right to request that the treasurer enter into a payment schedule with him to pay the delinquent taxes. Also extends the payment schedule to up to 36 months, and permits a circuit court to refer parties to a dispute resolution proceeding.

#### HB 1598 Real property tax; boards of equalization.

Amends §§ 58.1-3374 and 58.1-3378 through 58.1-3381 to modify several provisions governing boards of equalization including (i) setting stricter requirements for serving on BOEs; (ii) authorizing boards to receive complaints electronically and setting requirements for mailing and submitting paper applications; (iii) prohibiting a board to deny relief based on a lack of information from the taxpayer as long as certain specified information is provided; (iv) providing procedures by which a taxpayer may appoint a representative; (v) providing procedures to be followed before a board may increase assessments on certain types of property; and (vi) setting deadlines for consideration of certain information.

# Constitutional Amendments and Studies

### HJ 551 Constitutional amendment; General Assembly may exempt real property of spouses of soldiers killed.

Provides that the General Assembly may provide a real property tax exemption for the primary residence of surviving spouses of members of the military who are killed in action. Such tax exemption may not be claimed by a surviving spouse who has remarried.

### SJ 282 Foster care maintenance and adoption assistance; DSS to develop options for extending payments.

Requests the Department of Social Services to develop and present options for implementing the extension of foster care maintenance and adoption assistance payments for individuals up to 21 years of age.

### SJ 328 Elementary and secondary schools; JLARC to study efficiency and effectiveness of school's spending.

Directs the Joint Legislative Audit and Review Commission to study the efficiency and effectiveness of elementary and secondary school spending in Virginia. The Commission shall submit its report in November 2016.

### SR 30 Tolls; Senate Committee on Finance to study ways to mitigate impact on State's disadvantaged.

Directs the Senate Committee on Finance to study ways to mitigate the impact of tolls on Virginia's disadvantaged citizens.

# Failed Legislation

#### HB 1430 Right to Farm Act; expands definition of agricultural operations, etc.

Adds new by-right uses to Right to Farm Act. Gives any aggrieved persons a cause of action against a county or any of its officials or employees who interfere with the right of a farmer to sell items such as art, literature, artifacts, furniture, food, beverages and other products that are incidental to the agricultural operation.

#### HB 2142 Farm wineries; locality may not regulate activities.

Prohibits any locality from regulating the number or frequency of usual and customary activities and events at farm wineries, and provides that regular business hours shall, at a minimum, include the hours between 9:00 a.m. and 9:00 p.m.

#### HB 1429 Zoning; attorney fees.

Provides that a court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in a zoning action brought against it or that successfully challenges the validity of a zoning ordinance.

#### SB 1073 Attorney; fees in certain land use cases.

Provides that a court, in addition to any other relief provided, and for good cause, may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action successfully challenging an ordinance, administrative act, or other local action related to planning, subdivision of land, zoning, or other land use activity.

#### HB 2223 Private property rights; prevent infringement of under United Nations Agenda 21.

Prohibits the state and localities from adopting policies that deliberately or inadvertently infringe upon or restrict private property rights without due process, as may be required by policy recommendations originating in or traceable to Agenda 21.

#### HB 1329/SB 937 Local taxes; interest on refunds and delinquent taxes.

Prohibits localities from imposing interest for a taxpayer's failure to file a return or pay a tax if such failure was the fault of the commissioner of the revenue, the treasurer, or was not the fault of the taxpayer.

#### HB 1687 Real property tax; increases in assessed value for prior years.

Reduces the "look back" period for the increase of real estate assessments on the local government from three years to one year, but gives the taxpayer the right to appeal their assessment for three years.

#### HJR 755 Tax restructuring; elimination of BPOL, Machinery and Tool, etc.

Requesting the Virginia Municipal League, Virginia Association of Counties, Virginia Small Business Commission, and Virginia Manufacturing Development Commission to evaluate and develop a plan for implementing tax restructuring to eliminate the BPOL, Machinery and Tool and Merchant's Capital Taxes.

#### HB 1437 Intangible personal property tax; classification of certain machinery and tools.

Classifies as intangible personal property, and therefore subject solely to state taxation, machinery and tools purchased on or after July 1, 2013, that have not been in service for more than three years.

### HB 1309 School calendar; local school boards responsible for setting and determining opening of school year.

Makes local school boards responsible for setting the school calendar and determining the opening of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of Education may grant waivers of this requirement.

### HB 1340 Electoral boards and general registrars; reimbursement of costs of compensation and expenses.

Requires the state to reimburse localities for the entire costs of electoral boards and general registrars.

#### HB 1341 Presidential primaries; localities shall be reimbursed by State for all costs incurred.

Requires the state to reimburse localities for the costs of presidential primaries.

#### **HB 1342 Elections; costs of primaries.**

Requires the state to reimburse localities for the costs of primary elections funded by the appropriation act.

### HB 1956 Special elections; Commonwealth shall pay costs of conducting to fill vacancy in General Assembly.

Requires the state to pay the costs of a special election to fill a vacancy in the General Assembly if such election is held on a day other than the day of a general election.

#### HB 1373 Legal notices; advertisement by locality.

Allows localities with a certain population to meet certain notice requirements by utilizing their websites, radio, or television instead of a newspaper of general circulation.

#### HB 1404 Residential development; impact fees to defray costs of public facilities.

Authorizes any locality to impose impact fees on residential developments in order to defray the costs of constructing public facilities necessitated by those developments.

### HB 1488 Stormwater management program; delays date local governments will have to for administering.

Delays to Jul. 1, 2015 the date that localities will have to assume responsibility for administering the stormwater management program.

#### HB 1535/HB 1585 Town and county; joint powers

Provides that where a town and county generally enjoy the same power, a town may by ordinance negate the application of the exercised county power in or as to the town; may itself exercise the joint power, preempting the exercise of the county's power in or as to the town; or may adopt and affirm the application of the exercised county power in or as to the town.

HB 1662 Libraries; locality to adopt an ordinance that prohibits firearms, ammunition, etc.

SB 1228 Firearms; property or facilities owned or leased by localities

HB 1693 Firearms; removes specific exception for possession on public school property, penalty

#### HB 1730 Standards of Quality; full-time uniformed school resource officer.

Requires each local school board to establish a collaborative agreement with local law-enforcement agencies to employ one full-time uniformed school resource officer in every school in the local school division.

#### HB 1831 Businesses, beginning; tax incentives.

Provides a two-year exemption from local business, professional, and occupancy license tax for any business that locates for the first time a locality.

#### HB 2204 Polling places; location shall not be in public or private school building.

Provides that no polling place shall be located in a public or private school building.