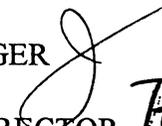


*City of Alexandria*

**MEMORANDUM**

DATE: JANUARY 24, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: JAMES K. HARTMANN, CITY MANAGER 

FROM: BERNARD CATON, LEGISLATIVE DIRECTOR 

SUBJECT: RECOMMENDATIONS AND STATUS REPORT (NO. 1) ON LEGISLATION INTRODUCED AT THE 2005 GENERAL ASSEMBLY SESSION

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**ISSUE:** Recommendations and status report (No. 1) on legislation introduced at the 2005 General Assembly Session.

**RECOMMENDATION:** That City Council approve the legislative positions included in Attachment 1 (Recommended Positions on Bills of Importance to the City) as recommended by City Council's Legislative Subcommittee (Mayor Euille and Councilwoman Woodson).

**DISCUSSION:** The 2005 General Assembly Session began on January 12, and is scheduled to adjourn on February 26. The deadline for introduction of legislation was Friday, January 21.<sup>1</sup> As of that day, 2,599 bills and resolutions have been introduced (not all of these have been entered into the legislature's on-line data base thus far; it is unclear whether additional bills and resolutions are waiting to be added to the system). Although no major issues, like general tax and budget reform, are expected to dominate this Session, there are significant ones that will be considered, including transportation funding, assisted living, and telecommunications tax reform.

**City Package.** The following bills from the City's legislative package have been introduced (Attachment 2 is a status report on these bills):

- HB 578, which seeks to grant localities the authority to allow video or audio commitment hearings for involuntary psychiatric patients who have been detained at facilities outside

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<sup>1</sup>There are some exceptions to this rule (e.g., bills can be introduced by unanimous consent or at the request of the governor), but relatively few bills are introduced after the deadline.

the City, passed the House unanimously and is now awaiting action by the Senate Courts of Justice Committee.

- HB 2546, seeks to require coal-fired electric generating facilities in severe non-attainment areas like Northern Virginia to either (1) establish a schedule by which they will significantly reduce by specific amounts their emissions of oxides of nitrogen, sulfur dioxide, and particulates; or (2) cease operation by a given date in lieu of reducing their emissions. It was introduced by Delegate Van Landingham on behalf of the City, but will be carried by Delegate Moran in Delegate Van Landingham's absence. It awaits action by the House Committee on Agriculture, Conservation and Natural Resources. The City will seek to have it amended so that it specifically requires the reduction of PM2.5 and mercury.

A related bill, HB 2742, has been introduced by Delegate Jack Reid of Henrico. While it would require the reduction of certain emissions from power plants, HB 2546 would require significantly greater reductions. In addition, HB 2546 gives Mirant an incentive to cease operating, by allowing it to shut down in lieu of reducing its emissions.

- HB 2802 seeks to protect the confidentiality of communications between victims of sexual assault or domestic violence and their advocates. Similar legislation introduced at the City's request nearly passed last Session. This bill has been referred to the House Courts of Justice Committee.
- SB 1079 seeks to amend the Virginia Code to toll (or suspend) the statute of limitations on private rights of action under Virginia law until a local human rights commission has acted on a case. This will allow victims of unlawful discrimination to file suit raising state law claims in state court once it is clear that there is no federal jurisdiction in the matter, and avoid unknowingly missing statutory filing deadlines. This bill was approved unanimously by the Senate Committee on General Laws and awaits floor action in the Senate.
- House Bill 2675 would authorize localities that can charge admissions taxes to limit these taxes to movie theater admissions. It is awaiting action by the House Finance Committee.
- House Bill 2638 would make an employer guilty of embezzlement if he refuses to pay an employee for labor the employee provided in accordance with a compensation agreement. The City asked for this legislation primarily to address the issue of non-payment of day laborers. It has been assigned to the House Courts of Justice Committee.
- Two approaches have been taken by the City's legislative delegation and others to allow for early voting. At least four bills (including HB 2636 [Ebbin] and SB 1226 [Ticer]) have been introduced to eliminate the list of categories of voters (students, people out of town on business, etc.) who are eligible to vote absentee, and would allow anyone to vote

absentee for any reason. Delegate Ebbin and Senator Ticer have also introduced legislation (HB 2758 and SB 1076) which does not amend absentee eligibility, but will require local electoral boards to establish one or more sites where voters can cast their ballots during the two to three week period just prior to an election. All of these bills have been referred to the House and Senate Committees on Privileges and Elections, where they await committee consideration.

- A number of bills have been introduced to extend or eliminate the July 1, 2005, sunset clause in the legislation authorizing localities to use red light cameras. Some of the bills also seek to extend red light camera authority to additional cities and counties.<sup>2</sup> As usual, these bills are being acted on favorably by the Senate. Although none have yet been considered in the House of Delegates, they are expected to have trouble gaining passage by that body. Staff from Alexandria and other localities are hopeful, but unsure, that legislation will be enacted in the final days of Session that will extend the sunset to July 1, 2007.
- SB 1099 seeks to increase, from two to four percent, the sales tax on motor fuels in Northern Virginia that is used to help pay for transit costs. It awaits action by the Senate Finance Committee.
- SJR 440 seeks to have the General Assembly express its support for the recommendations of the Panel on the Analysis of the Potential for Alternate Dedicated Revenue Sources for the Washington Metropolitan Area Transit Authority (the Blue Ribbon Panel). Its patron (Senator Mary Margaret Whipple of Arlington) is expected to seek an amendment to the resolution asking the Governor to work with Governor Ehrlich, Mayor Williams, and federal officials to develop a plan to implement the Panel's recommendations in time for legislation to be introduced in the 2006 General Assembly Session. The resolution will be considered by the Senate Rules Committee.
- SJR 259 proposes to amend the Virginia Constitution to authorize the General Assembly to provide by statute for the restoration of a felon's voting and other civil rights. Similar legislation was passed in 2003 but defeated in 2004 (constitutional amendments must be approved in two separate General Assembly sessions, with a legislative election taking place between the sessions). This legislation awaits action by the Senate Committee on Privileges and Elections.
- A number of resolutions have been introduced that propose to amend the constitution to permit the Governor to serve two successive terms. These have been assigned to the House and Senate Privileges and Elections Committees.

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<sup>2</sup>The only localities now authorized to operate red light cameras are the cities of Alexandria, Falls Church, Fairfax, Richmond, and Virginia Beach, and the counties of Arlington, Fairfax, and Loudoun.

- HB 1633 calls for the repeal of the Affirmation of Marriage Act, which was passed last Session and prohibits a “civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage” as well as any related contractual rights. HB 2490 seeks to amend the Affirmation of Marriage Act by adding language specifying that the Act “shall not abridge the right of any person to enter into a lawful contract that pertains to the ownership or devising of joint property, the maintenance of personal health, or the protection of private assets. Both these bills have been assigned to the House Courts of Justice Committee.
- Senate Bill 1139, which the City opposes, would limit to \$600,000 per parcel the state tax credit that can be taken under §58.1-512 of the Code by those who donate land to public or private conservation agencies for preservation or conservation purposes. If enacted, this legislation could significantly limit future donations of land for open space or preservation in localities with high land values, such as Alexandria. The bill has been referred to the Senate Finance Committee. Last Session the Senate approved similar legislation, but it was defeated in the House.

**Transportation Funding**. Although local governments and many others believe that the major funding need that the 2004 Session failed to address was transportation, it does not appear that the 2005 Session will approve a comprehensive transportation funding plan. Nonetheless, it does appear that incremental improvements are likely.

In his budget, the Governor proposed \$824 million in new transportation funding. The Governor’s proposal would increase state urban funds, a portion of which the City receives; provide \$10 million for statewide bus purchases, for which the City may be eligible; and provide \$40 million for Metrorail cars.

The House Republican Caucus has proposed a \$939 million transportation package, funded in part by earmarking automobile insurance premium taxes and by assessing additional penalties on “chronic traffic law offenders.” Direct benefits to the City are less clear under this plan. There is no earmark for Metrorail, but there is \$40 million in new transit funding, \$30 million of which should go to Northern Virginia if the existing transit distribution formula is used.

John Chichester, Chairman of the Senate Finance Committee, has proposed SB 1325, which would dedicate all revenues from the automobile insurance premium tax to transportation. Senator Chichester said he is disappointed with the “band aid” approach to transportation funding that has been proposed by the Governor and the House Republican Caucus. He proposed delaying a more comprehensive rewrite of transportation funding statutes until the 2006 Session.

**Telecommunications Taxes**. With assistance from local government and industry representatives, the General Assembly has spent several years now considering ways to revise existing state and local telecommunications taxes. A proper restructuring of telecommunications taxes could be helpful to local governments by allowing their tax policies to better respond to

changes within the telecommunications industry (e.g., the increased use of voice over internet, for instance, which localities are not now able to tax).

The City and other local governments have insisted throughout the tax restructuring study that local governments must be ensured that any new telecommunications tax and revenue distribution system will not result in a decrease in revenues for local governments. On Friday, HB 2880 was introduced. If enacted as introduced, it will eliminate local consumer utility taxes, existing E-911 land line taxes, a portion of the BPOL tax charged on telephone companies by some localities, the Virginia Relay Center Tax, and cable franchise fees.

In place of these taxes, a 5 percent communications tax will be levied on all billings for the use of land lines, cell phones, pagers, long distance, voice over internet, cable television, satellite radio, and satellite television. Cable television will also be charged a new right-of-way fee (about \$.62/line/month), and all land lines (including voice over internet) will be charged \$.75/month for E-911 (cell phones will continue to pay the existing cell phone e-911 fee of \$.75/month). Telecommunications companies will be required to send these fees to the Department of Taxation, which will distribute them to localities. Each county, city, and large town's percentage share of these funds will be the same as the percentage it received of total statewide local communications tax revenues in FY 04, after subtractions are made for small towns and VA Relay Center. Local government representatives involved in the development of this proposal believe that the plan is likely to be revenue neutral (local governments should receive approximately the same revenues from the new tax system as they did under the old one). Attachment 3 is a table which compares the existing and proposed tax systems.

**Cable Television Franchises.** Verizon, which plans in the future to offer cable television in some localities, has proposed changes to the state's cable franchise laws. These changes would apply to localities that have existing cable television franchises, and would significantly change the franchise process for telephone companies that are adding cable television in areas where they already offer phone service. Attachment 4 shows how the Verizon proposal would differ from existing law and practice in the City. Although Verizon claims that it wants to "level the playing field," most local government representatives do not believe that what they have proposed thus far does that. Nonetheless, it is in local government's interest to seek improvements to the Verizon proposal in case it is enacted, and localities continue to negotiate with the company. Staff does not recommend that the City take a position on this proposal at this time, since it being modified almost daily. Future updates will continue to address this issue.

**Assisted Living.** At least 14 bills have been introduced to strengthen Virginia's regulation of assisted living facilities. A group of advocates for assisted living reform has taken the various bills and is working to develop a composite proposal that will incorporate the positive aspects of each of these measures. The reforms that are being proposed in the composite legislation will address four areas of major concern:

- Assisted living facilities must be required to provide accurate and complete information to prospective residents so that they can make a sound comparison among facilities and choose one appropriate for the individual. The information should cover at minimum fees; services provided; the number and qualifications of staff; activities provided; and admission, discharge, and transfer criteria.
- Sufficient training should be required of administrators and direct care staff. A licensure requirement should be established for assisted living facility administrators. Existing administrators should not automatically be grandfathered, but should be forced to meet the licensure standards.
- A tiered system of enforcement with enhanced penalties should be implemented, so that failure to comply with regulations is dealt with appropriately. Maximum penalties should be increased from \$500 (the current maximum) to \$10,000. An expedited system of licensure suspension should be established, for use if imminent danger to residents exists. The number of state inspectors should be increased, and their areas of expertise should be broadened.
- State funding for auxiliary grants for assisted living residents should be increased, as well as funding for the State's Long-Term Care Ombudsman Program.

Staff believes that the composite legislation is likely to address concerns related to assisted living facilities in the City. Once this proposal is finalized (which should be very soon), staff will review it and advise Council if there are any issues that staff believes still need to be incorporated into the composite legislation. Attachment 5 further elaborates on the four areas of concern which the advocates are seeking to address in the legislation.

**Affordable Housing.** Legislation has been introduced that, in its current form, would significantly affect the City's ability to accept developer contributions for affordable housing. SB 1206 (Mims-Loudoun) and HB 2167 (Reese-Fairfax) would prohibit any locality from requesting or receiving contributions for affordable housing unless the contribution is made as a part of a program established by an ordinance that authorizes bonus density or bonus height in exchange for such a contribution. The City is working with other localities and the patrons to try to modify the legislation so that it does not harm the City's affordable housing programs. If the patrons are unwilling to agree to such amendments, the City will strongly oppose the legislation.

**Clean Stream Fee/Flush Tax/Tax Earmarks.** One area perpetually shortchanged in the Virginia budget is natural resources, which receives less than one percent of all general fund revenues. Because of this limited funding, the State always finds it difficult to fund new natural resources programs, including many of the initiatives to clean up the Chesapeake Bay.

In recent years, the Chesapeake Bay Foundation has called for new sources of funds to remove nutrients, especially nitrogen, from the Bay and its tributaries. When general fund revenues were

not appropriated for this, it suggested that a “flush tax” be added to the wastewater treatment bills of all Virginia residents. VML and the Virginia Association of Counties have opposed this proposal, in part because it would require localities to serve as the state’s collection agent, and because it would impose a state tax on a locally-provided service.

Senator Mary Margaret Whipple has introduced the Clean Stream Fee (SB 1240) on behalf of the Bay Foundation. This legislation seeks to have localities collect the equivalent of \$1 weekly from residences collected to a wastewater treatment system or a septic system. Industrial facilities with a wastewater discharge would be charged \$100 monthly. Revenues from this tax would be used to remove nitrogen from wastewater discharges, and to fund agricultural programs that would also result in the reduction of nutrient runoff. SB 1240 has been assigned to the Senate Committee on Agriculture, Conservation, and Natural Resources.

Because of the opposition that has developed to the flush tax, the Bay Foundation has worked with other legislators to develop legislation (SB1235 and HB 2777) that will earmark a portion of state general funds for nutrient removal programs. SB 1235 has been referred to the Senate Finance Committee, where the chairman generally opposes new earmarks of general fund revenues; HB 2777 was sent to the House Appropriations Committee.

**State Budget.** On December 17, the Governor proposed amendments to the State budget. Staff is unaware of any proposal by the Governor that will detrimentally affect the City. He has recommended slight increases in some programs (e.g., HB 599 local law enforcement funding) as a result of increased state revenue growth, and new transportation initiatives (described above) were included. Amendments proposed by House and Senate members were due at the end of last week, and have not yet been fully tabulated or made public. The House Appropriations and Senate Finance Committees are scheduled to make their proposed budget amendments public on February 6. Staff will continue to update Council on the budget throughout Session.

**ATTACHMENTS:**

Attachment 1 - Recommended Positions on Bills of Importance to the City, January 21, 2005

Attachment 2 - Current Status of City Package Bills, January 21, 2004

Attachment 3 - Telecommunications Tax Revisions, Industry Proposal vs. Current Taxes (chart)

Attachment 4 - Verizon Cable Television Franchise Proposal vs. Current Law (chart)

Attachment 5 - “Revisions Needed to Virginia’s Policies Affecting Assisted Living Facilities” (prepared by advocates for reforms of assisted living facilities)

**STAFF:**

Bernard Caton, Legislative Director

Michele Evans, Assistant City Manager

**Attachment 1**  
Recommended Positions on Bills of Importance to the City  
January 21, 2005

**HB 1517 Assault and battery; anger management for persons charged with first offense against family member.**

*Summary as introduced:*

**Anger management for persons accused of family violence.** Allows a court to require a person who is accused of family violence to enter, along with the victim who agrees to such a course of action, an education or treatment program focused upon anger management and designed to retrain the parties on how to disagree effectively and peacefully, if such a program is available. The court, when such a program is not available, may require education or treatment services such as, in the opinion of the court, may be best suited to the needs of the accused.

*Patrons:* Reese and Eisenberg

11/15/04 House: Referred to Committee for Courts of Justice

01/13/05 House: Assigned to C. J. sub-committee: Criminal Law

**Notes:** City Position: Oppose

**HB 1534 Retail Sales and Use Tax; exemptions include school supplies, clothing, footwear and computers.**

*Summary as introduced:*

**Sales and use tax exemption; school supplies, clothing and footwear, and computers.**

Provides a sales and use tax exemption for certain school supplies, clothing and footwear, and computers purchased during a four-day period each year beginning on the Friday before the first Monday in September. The exempt items are: each article of school supplies with a selling price of \$20 or less, each article of clothing or footwear with a selling price of \$100 or less, and each article of computers or related peripheral equipment with a selling price of \$1,500 or less. The bill also authorizes dealers to absorb the sales and use tax on all other items sold during the same time period and thereby relieve the purchasers of the obligation to pay such tax. Dealers who absorb such taxes are liable for payment of the same to the Tax Commissioner.

*Patrons:* Frederick and Athey

11/23/04 House: Referred to Committee on Finance

01/12/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support

**HB 1563 DMV; assessment of additional fees on certain drivers.**

*Summary as introduced:*

**Assessment of fees by Department of Motor Vehicles (DMV) on certain drivers; use of fees collected.** Requires the DMV Commissioner to impose and collect fees on drivers who have accumulated more than six net driver demerit points or have been convicted of reckless driving, aggressive driving, driving on a suspended or revoked license, DUI, or any other misdemeanor involving operation of a motor vehicle. These fees, minus cost of collection, will be used to support issuance of bonds whose proceeds are to be used for transportation construction,

reconstruction, maintenance, maintenance replacement, and/or improvement projects.

*Patrons:* Rust, Albo, Frederick, Lingamfelter, Marshall, D.W. and Oder; *Senators:* Mims and O'Brien

12/07/04 House: Prefiled & ordered printed; offered 01/12/05 053391204

12/07/04 House: Referred to Committee on Transportation

01/21/05 House: Fiscal impact statement from DPB (HB1563)

**Notes:** City Position: Oppose

**HB 1564 DMV; assessment of fees on certain drivers.**

*Summary as introduced:*

**Assessment of fees by Department of Motor Vehicles (DMV) on certain drivers; use of fees collected.** Requires the courts to impose, in addition to any other penalties imposed, civil penalties on drivers convicted of certain offenses: \$100 for speeding at least 15 but not more than 19 miles per hour above the posted speed, \$250 for driving while his driver's license was suspended or revoked, \$300 for reckless driving or aggressive driving, and \$500 for driving while intoxicated. These fees, minus cost of collection, will be used to support issuance of bonds whose proceeds are to be used for transportation construction, reconstruction, maintenance, maintenance replacement, and/or improvement projects. The bill also revises the schedule of driver demerit points to be awarded for speeding so that speeding 1-9 mph carries 3 points, 10-14 mph carries 4 points, 15-19 mph carries 5 points, and 20 mph or more carries 6 points.

*Patrons:* Albo, Rust, Athey, Frederick, Lingamfelter, Marshall, D.W., O'Bannon and Oder; *Senators:* Mims and O'Brien

12/07/04 House: Prefiled & ordered printed; offered 01/12/05 053393204

12/07/04 House: Referred to Committee on Transportation

**Notes:** City Position: Oppose

**HB 1618 Interfering with emergency use of telephone; penalty.**

*Summary as introduced:*

**Interfering with emergency use of telephone; penalty.** Provides that if a person maliciously interrupts telephone communication with the intent to prevent another person from reporting an emergency situation or summoning emergency assistance, he is guilty of a Class 1 misdemeanor.

*Patron:* Janis

01/21/05 House: Read third time and passed House (95-Y 1-N)

01/21/05 House: Communicated to Senate

**Notes:** City Position: Support

**HB 1635 Sales and Use Tax; exemptions include food purchased for human consumption.**

*Summary as introduced:*

**Sales and use tax exemption; food for human consumption.** Exempts food for human consumption from the state sales and use tax.

*Patron:* Welch

01/12/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support if takes off 2 1/2%

**HB 1636 Motor Vehicle Sales & Use Tax; revenue from rental taxes deposited into Transportation Trust Fund.**

*Summary as introduced:*

**Motor vehicle rental taxes.** Requires that all revenue from the state motor vehicle rental taxes be deposited into the Transportation Trust Fund and used solely for transportation purposes.

*Patron:* Cole

12/17/04 House: Referred to Committee on Appropriations

01/12/05 House: Assigned to App. sub-committee: Transportation

**Notes:** City Position: Oppose

**HB 1733 Freedom of Information Act; exempts certain email addresses.**

*Summary as introduced:*

**Freedom of Information Act; record exemption for certain email addresses.** Revises a current exemption for personal information, including electronic mail addresses to allow the withholding of such information unless the subject of the record waives the protections afforded by the exemption. Currently, the presumption is that the record is open unless the subject of the record indicates that the record should not be released.

*Patron:* Cosgrove

01/03/05 House: Referred to Committee on General Laws

01/12/05 House: Assigned to General Laws sub-committee: Subcommittee #2

**Notes:** City Position: Support

**HB 1821 Eminent domain; procedure for acquisition of property by State.**

*Summary as introduced:*

**Eminent domain procedures.** Makes the general provisions for the conduct of proceedings to acquire property by exercise of the power of eminent domain mandatory. Currently, the provisions create no rights or liabilities. The measure requires condemnors to pay the landowner's reasonable costs and experts' fees, excluding attorneys' fees, if the award at trial exceeds the condemnor's initial offer by more than 15 percent, and requires courts to give preference to eminent domain proceedings over other civil actions when setting cases for trial. Condemnors that are authorized to use the quick-take process will be required to comply with these general provisions.

*Patrons:* Suit and Landes

01/05/05 House: Referred to Committee for Courts of Justice

01/14/05 House: Assigned to C. J. sub-committee: Civil Law

**Notes:** City Position: Oppose

**HB 1830 Cell phones; prohibits use while driving.**

*Summary as introduced:*

**Use of certain wireless communication devices by operators of motor vehicles.** Except in certain emergency situations, prohibits the operator of a moving motor vehicle from using any wireless communication device, unless the device is being used hands-free.

*Patron:* Parrish

01/06/05 House: Prefiled & ordered printed; offered 01/12/05 052222452

01/06/05 House: Referred to Committee on Transportation

01/21/05 House: Assigned to Tra. sub-committee: Subcommittee # 3

**Notes:** City Position: Support

**HB 1869 Fingerprints; increases fees for noncriminal prints.**

*Summary as introduced:*

**Criminal procedure; fee for fingerprints.** Increases fingerprint fees for noncriminal prints from \$5 per card to \$10 for the first card and \$5 for each successive card.

*Patron:* Brink

01/06/05 House: Referred to Committee for Courts of Justice

01/14/05 House: Assigned to C. J. sub-committee: Civil Law

**Notes:** City Position: Support

**HB 1875 Retail Sales and Use Tax; exemptions include food for human consumption.**

*Summary as introduced:*

**Sales and use tax exemption; food for human consumption.** Exempts food for human consumption from the state sales and use tax.

*Patrons:* McDougle and Athey

01/07/05 House: Prefiled & ordered printed; offered 01/12/05 053028408

01/07/05 House: Referred to Committee on Finance

01/13/05 House: Assigned to Finance sub-committee: #2

01/18/05 House: Fiscal impact statement from TAX (HB1875)

**Notes:** City Position: Support

**HB 1931 Recreational access funding; limitations.**

*Summary as introduced:* **Recreational access funding limits.** Clarifies that limitations on expenditures for recreation access projects are annual limits.

*Patron:* Shannon

01/10/05 House: Prefiled & ordered printed; offered 01/12/05 052230118

01/10/05 House: Referred to Committee on Transportation

01/21/05 House: Assigned to Tra. sub-committee: Subcommittee # 2

**Notes:** City Position: Support

**HB 2023 Meals tax; cities and towns.**

*Summary as introduced:*

**Meals tax; cities and towns.** Restricts the imposition in any city or town of any new or increased meals tax without approval by referendum.

*Patron:* Welch

01/11/05 House: Referred to Committee on Finance

01/19/05 House: Reported from Finance with amd (17-Y 5-N)

01/21/05 House: Read first time

**Notes:** City Position: Oppose

**HB 2066 Income tax, state; repeals car tax reimbursement program.**

*Summary as introduced:*

**Car tax; dedication of income taxes to localities.** Repeals the car tax reimbursement program and replaces it by dedicating 17.5 percent of the state individual income tax collections to localities. The bill is effective January 1, 2007, and only if a Constitutional amendment is ratified in November, 2006 exempting from taxation all motor vehicles used for nonbusiness purposes.

*Patrons:* Rust, Black and Lingamfelter

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 053080492

01/11/05 House: Referred to Committee on Finance

01/13/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support

**HB 2079 Historic Preservation and Museum Assistance Grant Program and Fund created.**

*Summary as introduced:*

**Virginia Historic Preservation and Museum Assistance Grant Program and Fund.** Creates the Virginia Historic Preservation and Museum Assistance Grant Program and Fund within the Department of Historic Resources. The source of funding for the Fund will be from gifts, donations, grants, bequests, and other funds as may be appropriated. The Program will administer the Fund in order to provide grants to nonprofit organizations, localities, business entities, and individuals for the purpose of: (i) acquiring, rehabilitating, restoring, or interpreting historic properties; (ii) financing costs directly related to a rehabilitation or restoration project, which may include the costs of studies, surveys, plans and specifications, and architectural, engineering or other special services; or (iii) funding historic preservation education and promotion, including the research, survey, and evaluation of historic properties and the preparation of historic preservation planning documents and educational materials.

*Patrons:* Van Landingham and Plum

01/11/05 House: Referred to Committee on General Laws

01/20/05 House: Reported from General Laws (21-Y 0-N)

01/20/05 House: Referred to Committee on Appropriations

**Notes:** City Position: Support

**HB 2080 Historic preservation; appropriation of state funds therefor.**

*Summary as introduced:*

**Appropriation of state funds for historic preservation.** Sets July 1 of even-numbered years as the cutoff date for requests for state aid, or amendments to requests, to be submitted to the Department of Historic Preservation for consideration. This bill also establishes new requirements for organizations that apply for state aid, such as: (i) applicants must certify that they have read and acknowledged all information on how the grants will be administered and how funds will be disbursed, (ii) any change in scope of a project must be approved by the Department prior to implementation of any changes, (iii) expenditures of grant funds are subject to state procurement and accounting requirements, (iv) state funds must be matched, and (v) the Department may require progress reports from each grant recipient. This bill also requires that for renovation grants or grants for reconstruction of historic sites, the Appropriation Act shall include the name

of the recipient organizations and the purposes of their grants.

*Patron:* Plum

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 057192528

01/11/05 House: Referred to Committee on Appropriations

01/13/05 House: Assigned to App. sub-committee: Natural Resources

01/18/05 House: Fiscal impact statement from DPB (HB2080)

**Notes:** City Position: Support

**HB 2092 Retail Sales and Use Tax; exemptions for certain contractors.**

*Summary as introduced:*

**Sales and use tax; exemption for certain contractors.** Exempts from paying the sales and use tax any person who contracts to perform services for and provides tangible personal property for consumption or use by the Commonwealth, any political subdivision of the Commonwealth, or the United States, if the Commonwealth, political subdivision, or the United States certifies that title to such tangible personal property will pass to such governmental entity.

*Patron:* Hugo

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 053059332

01/11/05 House: Referred to Committee on Finance

01/13/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Oppose

**HB 2164 Residential Landlord & Tenant Act; termination of rental agreement for fire or casualty damage.**

*Summary as introduced:*

**Virginia Residential Landlord and Tenant Act; fire or casualty damage; termination of rental agreement.** Provides for the termination of the rental agreement by either the landlord or the tenant in cases where the dwelling unit is damaged by fire or casualty and repairs to at least 50 percent of the dwelling unit are required, or required repairs can only be accomplished if the tenant vacates the dwelling unit. The bill provides for required notice of an intent to terminate the rental agreement and specifies the date of termination. The bill also requires upon termination, that the landlord return all security and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes that the tenant, tenant's guests, or those occupying the dwelling unit with the tenant's permission were the cause of the damage or casualty, in which case the landlord must account to the tenant for the security and prepaid rent, plus accrued interest based upon the damage or casualty.

*Patron:* Reese

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 051181484

01/13/05 House: Referred to Committee for Courts of Justice

01/14/05 House: Assigned to C. J. sub-committee: Civil Law

**Notes:** City Position: Oppose

**HB 2165 Residential Landlord and Tenant Act; noncompliance with rental agreement.**

*Summary as introduced:*

**Virginia Residential Landlord and Tenant Act; noncompliance with rental agreement.**

Provides that if the rental agreement provides for the payment of reasonable attorneys' fees in the event of a breach of the agreement or noncompliance by the tenant, the landlord shall be entitled to recover reasonable attorneys' fees in any action based upon the tenancy, including but not limited to actions for damages to the dwelling unit or premises, or additional rent, regardless of any previous action to obtain possession or rent. Currently, where the rental agreement provides for the payment of attorneys' fees, they can be awarded to the landlord only where the tenant fails to prove by a preponderance of the evidence that the failure to pay rent or vacate the premises was due to (i) the breach of the lease by the landlord or (ii) unlawful actions on the part of the landlord.

*Patron:* Reese

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 051182484

01/13/05 House: Referred to Committee for Courts of Justice

01/14/05 House: Assigned to C. J. sub-committee: Civil Law

**Notes:** City Position: Oppose

**HB 2167 Affordable housing; localities prohibited from requesting or receiving contributions.**

*Summary as introduced:*

**Affordable housing.** Provides that notwithstanding any other provision of law, a locality shall not request or receive contributions for affordable housing except pursuant to an ordinance adopted in accordance with provisions granting bonus density or bonus height in exchange for such contributions.

*Patron:* Reese

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 059065484

01/13/05 House: Referred to Committee on Counties, Cities and Towns

**Notes:** City Position: Oppose

**HB 2168 Garbage, trash, or refuse collection; additional requirements for localities.**

*Summary as introduced:*

**Displacement of private waste companies.** Adds requirements to the procedures localities must follow before displacing private companies providing garbage, trash, or refuse collection services. Such requirements include providing at least 45 days' written notice of the hearing to all business establishments that are serviced by such private companies, and making a written finding of at least one of the following: (i) privately-owned refuse collection and disposal services are not available; (ii) the use of privately-owned and operated services has substantially endangered the public health or created a public nuisance; (iii) privately-owned services, although available, are incapable of providing needed services in an efficient and cost-effective manner; (iv) or displacement is necessary to provide for the development of a regional system of refuse collection and disposal for two or more localities.

*Patron:* Reese

01/13/05 House: Referred to Committee on Counties, Cities and Towns

**Notes:** City Position: Oppose

**HB 2226 Urban and secondary highway systems; allocates funds among affected jurisdictions on certain basis.**

*Summary as introduced:*

**Urban and secondary highway system construction allocations.** Allocates urban system and secondary system highway construction funds among affected jurisdictions on the basis of (i) area, (ii) vehicle miles traveled, and (iii) population, with area being weighted 15 percent, vehicle miles traveled weighted 25 percent, and population weighted 60 percent.

*Patron:* Rust

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 056010492

01/11/05 House: Referred to Committee on Transportation

**Notes:** City Position: Oppose

**HB 2257 Personal Property Tax Relief Act of 1998; changes in provisions.**

*Summary as introduced:*

**Tangible personal property tax relief.** Amends the personal property tax relief program effective January 1, 2006, by establishing a reimbursement ratio to determine each locality's share of the \$950 million of total car tax relief. The reimbursement ratio is a fraction (i) the numerator of which is the value of all qualifying vehicles in a locality, up to the first \$20,000 of value, multiplied by the effective tax rate in effect in the locality on July 1, 1997, or August 1, 1997, whichever is greater; and (ii) the denominator of which is the aggregate amount of the calculation in (i) for all localities. The bill also provides that reimbursements to localities will be paid in 12 equal monthly installments beginning with the month of May each year, and requires localities to provide, in an equitable manner, personal property tax relief on qualifying vehicles.

*Patron:* Bell

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 057243232

01/11/05 House: Referred to Committee on Appropriations

01/18/05 House: Assigned to App. sub-committee: Budget Review

**Notes:** City Position: Oppose

**HB 2269 Retail Sales and Use Tax; exemptions include certain school-related items.**

*Summary as introduced:*

**Sales and use tax exemption; school-related items.** Beginning in 2005, provides a sales and use tax exemption for certain school-related items purchased during a specific one-week period during the end of August each year. The exempt items are: (i) school supplies, footwear, and clothing where the selling price of each item is \$100 or less; (ii) computer systems where the selling price for each system is \$1,500 or less; and (iii) computers, computer hardware, computer software, and portable calculators where the selling price for each item is \$500 or less.

*Patrons:* Bell and Lingamfelter

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 057225232

01/11/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #2

01/21/05 House: Fiscal impact statement from TAX (HB2269)

**Notes:** City Position: Support

**HB 2276 Retail petroleum products sales facility; required by ordinance to remove and restore site.**

*Summary as introduced:*

**Local ordinance requiring removal of petroleum facility improvements; penalty.%A0**

Authorizes any locality to provide by ordinance that the owner of improvements at a motor fuels retail facility, within three years after the premises cease to be used as such a facility, shall remove all improvements and grade the surface, and thereafter shall maintain the surface in a natural or vegetated state until another use is established on the site.

*Patron:* Oder

01/11/05 House: Prefiled & ordered printed; offered 01/12/05 052103444

01/11/05 House: Referred to Committee on Counties, Cities and Towns

**Notes:** City Position: Support; try to change 3-year requirement to 1 year.

**HB 2330 Highway revenue sharing fund program to include cities and towns.**

*Summary as introduced:*

**Special funds for highway improvements in localities.** Expands the present revenue sharing fund program for counties to include cities and towns as well. The annual match limit is raised to \$5 million per locality, and the total limit on state funds is raised to \$100 million. Up to half of local contributions may take the form of proffers. Since the program now applies to all localities (not just counties), the present section embodying the program is repealed, and the new program is relocated to the article of Chapter 1 of Title 33.1 dealing with overall allocations of highway improvement funds.

*Patrons:* Athey and Scott, E.T.

01/11/05 House: Referred to Committee on Transportation

**Notes:** City Position: Support

**HB 2339 Retail Sales & Use Tax; reduction of rate on food purchased for human consumption, effective date.**

*Summary as introduced:*

**Sales and use taxes, reduction of rate on food purchased for human consumption.** Provides that the retail sales and use tax on food purchased for human consumption shall be imposed at a rate of 2.5 percent on and after July 1, 2005 (1.5 percent state and 1 percent local). Current law provides that the sales and use tax on food shall be imposed at a rate of 3.5 percent beginning July 1, 2005; 3 percent beginning July 1, 2006; and 2.5 percent beginning July 1, 2007. The bill accelerates the tax relief.

*Patrons:* Athey, Cole, Lingamfelter and Petersen

01/11/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #1

**Notes:** City Position: Support

**HB 2359 Income tax, state; localities may impose local tax if personal property rate does not exceed limit.**

*Summary as introduced:*

**Local piggyback income tax and personal property tax.** Allows localities to impose a local income tax at a rate of either one-half or one percent upon the Virginia taxable income of individuals, trusts, estates, and corporations; provided the personal property tax rate does not exceed \$0.01 per \$100 of value on personally owned motor vehicles. The Tax Commissioner collects the tax and returns it to localities based on taxpayers' residences. A new classification for personal property tax purposes is created for motor vehicles used for nonbusiness purposes. The provisions of the act will take effect January 1, 2006.

*Patrons:* Watts, Ebbin and Plum; Senator: Ticer

01/12/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support

**HB 2369 Prisoners; individual court orders permitting work not required.**

*Summary as introduced:*

**Court orders permitting prisoners to work on certain property.** Removes the requirement that court orders allowing prisoners to work on state, county, city, town, and certain private property or nonprofit organization property be written specifically for individual prisoners.

*Patrons:* Bryant; Senator: Newman

01/12/05 House: Referred to Committee on Militia, Police and Public Safety

01/21/05 House: Reported from M., P. & P. S. (20-Y 0-N)

**Notes:** City Position: Support

**HB 2377 Inoperable motor vehicles; civil penalty provisions for violations of ordinances.**

*Summary as introduced:*

**Inoperable motor vehicles.** Conforms civil penalty provisions for violations of inoperable motor vehicle ordinances to those currently existing for zoning violations. Penalties are increased from \$50 to \$100 for an initial violation and from \$200 to \$250 for subsequent violations.

*Patron:* Rapp

01/12/05 House: Referred to Committee on Counties, Cities and Towns

**Notes:** City Position: Support

**HB 2421 Sales and use taxes, reduction of rate on food purchased for human consumption.**

*Summary as introduced:*

**Sales and use taxes, reduction of rate on food purchased for human consumption.** Provides that the retail sales and use tax on food purchased for human consumption shall be imposed at a rate of 2.5 percent on and after July 1, 2005 (1.5 percent state and 1 percent local). Current law provides that the sales and use tax on food shall be imposed at a rate of 3.5 percent beginning July 1, 2005; 3 percent beginning July 1, 2006; and 2.5 percent beginning July 1, 2007. The bill accelerates the tax relief.

*Patrons:* Parrish, Callahan, Jones, S.C., Melvin, Petersen, Shannon and Sickles

01/12/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support

**HB 2444 Income tax, state; extends sunset provision for tax credit rent reductions.**

*Summary as introduced:*

**Income tax; rent reductions tax credit.** Extends the sunset date from December 31, 2005, to December 31, 2010, and limits credit between 2006 and 2011 to individuals or corporations that reduced rents and validly claimed a credit for the dwelling unit for all or part of December, 1999, and the tenant occupied the dwelling unit on December 31, 2005.

*Patron:* Suit

01/12/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #1

**Notes:** City Position: Support

**HB 2448 Landlord & tenant; installation of new lock or security device after entry of certain court orders.**

*Summary as introduced:*

**Landlord and tenant law; access after entry of certain court orders.** Allows a tenant who has obtained an order granting the tenant possession of the premises to the exclusion of one or more co-tenants or authorized occupants to provide the landlord with a copy of that court order and request that the landlord either (i) install a new lock or other security devices on the exterior doors of the dwelling unit at the landlord's actual cost or (ii) permit the tenant to do so, provided: installation of the new lock or security devices does no permanent damage to the dwelling unit and a duplicate copy of all keys and instructions of how to operate all devices are given to the landlord. Upon termination of the tenancy, the tenant will be responsible for payment to the landlord of the reasonable costs incurred for the removal of all such devices installed and repairs to all damaged areas. A landlord who has received a copy of such a court order is prohibited from providing copies of any keys to the dwelling unit to any person excluded from the premises by such order. The bill will not apply when the court order excluding a person was issued ex parte. The goal of the bill is to protect victims of domestic abuse.

*Patron:* Suit

01/12/05 House: Referred to Committee on General Laws

01/17/05 House: Assigned to General Laws sub-committee: Subcommittee #1

**Notes:** City Position: Support

**HB 2453 Real property assessments.**

*Summary as introduced:*

**Real property assessments.** Provides that (i) certain federal or state restrictions on real property be considered in determining the fair market value and the capitalization rate for the real property, and (ii) federal and state income tax credits with respect to real property shall not be considered real property or income attributable to real property.

*Patron:* Suit

01/12/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Oppose

**HB 2599 Retail Sales and Use Tax; exemptions include public transportation services.**

*Summary as introduced:*

**Sales and use tax exemption; public transportation.** Restores a sales and use tax exemption for tangible personal property sold or leased to any entity owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services. The bill declares that an emergency exists and is effective beginning September 1, 2004.

*Patrons:* Ware, O., Bryant, Fralin and O'Bannon; Senators: Edwards and Lambert

01/12/05 House: Prefiled & ord.printed w/emg.; offered 01/12/05 053073538

01/12/05 House: Referred to Committee on Finance

**Notes:** City Position: Support (applies to DASH)

**HB 2625 Cigarette and tobacco products; discount.**

*Summary as introduced:*

**Cigarette and other tobacco products taxes; discount allowed.** Changes the discount allowed on the purchase of cigarette tax stamps from two and one-half cents per carton to two percent of the total charged by the Department of Taxation for the purchase of the tax stamps. The bill also provides a discount to dealers of other tobacco products equal to two percent of the total tax due from the dealer.

*Patron:* Byron

01/12/05 House: Prefiled & ordered printed; offered 01/12/05 052939256

01/12/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #1

**Notes:** City Position: Oppose

**HB 2635 Deferred real estate tax; allows locality to establish interest rate.**

*Summary as introduced:*

**Deferred real estate tax; interest rate.** Allows a local governing body to establish the interest rate applicable to deferred real estate tax payments, not to exceed the rate established by the Internal Revenue Code. Currently, interest for the deferred payment is set as the rate established by the Internal Revenue Code.

*Patrons:* Ebbin, Brink, Eisenberg, Janis, Lewis, Miller, Moran, Nixon, Orrock, Parrish, Plum, Rust, Scott, J.M., Sickles, Van Landingham and Watts; Senators: Cuccinelli, Hanger, Houck, Ticer and Whipple

01/12/05 House: Prefiled & ordered printed; offered 01/12/05 056689300

01/12/05 House: Referred to Committee on Finance

01/15/05 House: Fiscal impact statement from TAX (HB2635)

01/18/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support

**HB 2644 Child abuse or neglect; definition.**

*Summary as introduced:*

**Juvenile and domestic relations district courts; definitions.** Eliminates from the definition of "family or household member" language that includes certain in-laws who reside within the same

home and replaces that language with "relatives, whether by blood or marriage," who reside within the same home. This definition is also used in sections that: prohibit recruitment of gang members by threats or force; criminalize assault and battery against a family member; criminalize stalking; allow an arrest without a warrant in certain instances when there is an assault and battery against a family member; authorize a court to exclude family members from a dwelling when a order is pending for divorce; and in the unfair insurance trade practices provisions.

*Patron:* Hurt

01/12/05 House: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HB 2674 Bad checks; payment of wages, penalty.**

*Summary as introduced:*

**Payment of wages with bad checks; penalty.** Provides that an employer who pays wages with a bad check having a face value of \$200 or more shall be guilty of a Class 6 felony.

*Patrons:* Ebbin, Brink, Callahan, Eisenberg, Moran, Plum and Van Landingham; *Senators:* Lucas, Ticer and Whipple

01/12/05 House: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HB 2688 Stalking; increase in penalty if occurs within two year period.**

*Summary as introduced:*

**Subsequent offenses of stalking.** Makes a second stalking conviction occurring within two years a Class 6 felony rather than a Class 1 misdemeanor. Currently there is no such increased penalty. This would complement the existing increased penalty (from a Class 1 misdemeanor to a Class 6 felony) that results from a third or subsequent conviction within five years.

*Patron:* Pollard

01/12/05 House: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HJ 525 Constitutional amendment; limit on growth in general fund appropriations & revenues (1st reference).**

*Summary as introduced:*

**Constitutional amendment (first resolution); limit on growth in state general fund appropriations and revenues.** Limits general fund growth in any fiscal year to the preceding year's general fund appropriation plus the percentage increase in gross state product for the most recently available year plus a factor for population increases. The General Assembly may exceed this limitation with a two-thirds vote of the members elected in each house. The amendment also provides that 50 percent of general fund revenues in excess of the limitation is to be returned to the citizens of Virginia and 50 percent goes into the Revenue Stabilization Fund.

*Patrons:* Ware, R.L. and Lingamfelter

08/16/04 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**HJ 547 Constitutional amendment; votes required for increase in taxes (first reference).**

*Summary as introduced:*

**Constitutional amendment (first resolution); enactment of tax laws.** Requires that any law that imposes, continues, increases, or revives a tax must be approved either: (i) by a four-fifths vote of the members voting in each house of the General Assembly; or (ii) by a majority vote of all members voting in each house of the General Assembly and by a majority of the people voting in a referendum on the question of whether the law shall take effect

*Patron:* Frederick

11/23/04 House: Prefiled & ordered printed; offered 01/12/05 051100303

11/23/04 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**HJ 616 Constitutional amendment; assessment of real property (first reference).**

*Summary as introduced:*

**Constitutional amendment (first resolution); assessment of real property.** Provides that beginning with the 2008 tax year, real property shall be assessed for tax purposes at no more than 105 percent of the assessed value of such property in the preceding tax year. However, if real property is sold or improved, it shall be assessed at fair market value for the tax year in which such transaction or improvement occurs. The fair market value assessment shall then be subject to the five percent limit in subsequent tax years until the property is again sold or improved.

*Patron:* Carrico

01/07/05 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**HJ 620 Constitutional amendment; exclude privately owned motor vehicles from property taxation.**

*Summary as introduced:*

**Exclude privately owned motor vehicles from property taxation.** Exempts privately owned motor vehicles used for nonbusiness purposes from property taxes.

*Patron:* Cole

01/10/05 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**SB 764 Residue parcels of land; Transportation Commissioner to offer parcels to local governing bodies.**

*Summary as introduced:*

**Residue parcels of land.** Requires the Commonwealth Transportation Commissioner to offer residue parcels to the local governing body of the locality wherein the parcels are located before otherwise disposing of them.

*Patrons:* Locke; Delegate: BaCote

01/05/05 Senate: Referred to Committee on Agriculture, Conservation & Nat.

**Notes:** City Position: Support

**SB 766 Mutual aid arrangements; allows director of emergency management to reciprocate.**

*Summary as introduced:*

**Mutual aid arrangements.** Allows a local director of emergency management to enter into mutual aid arrangements for reciprocal assistance in case of disaster with other states or localities within other states. Currently, directors are limited to making these arrangements with other public or private agencies within the Commonwealth or with states adjacent to Virginia.

*Patrons:* Locke; Delegate: BaCote

01/18/05 Senate: Read third time and passed Senate (39-Y 0-N)

01/18/05 Senate: Communicated to House

**Notes:** City Position: Support

**SB 812 Residue parcels of land; Transportation Commissioner to offer parcels to local governing bodies.**

*Summary as introduced:*

**Residue parcels of land.** Requires the Commonwealth Transportation Commissioner to offer residue parcels to the local governing body of the locality wherein the parcels are located before otherwise disposing of them.

*Patron:* Williams

01/10/05 Senate: Prefiled & ordered printed; offered 01/12/05 053166848

01/10/05 Senate: Referred to Committee on Transportation

**Notes:** City Position: Support

**SB 850 Firearms; carrying on public property.**

*Summary as introduced:*

**Firearms; carrying on public property.** Declares that no person who lawfully possesses a firearm shall be prohibited from carrying such firearm on public property or the buildings thereon unless specifically prohibited by law.

*Patron:* Cuccinelli

01/10/05 Senate: Prefiled & ordered printed; offered 01/12/05 057930720

01/10/05 Senate: Referred to Committee for Courts of Justice

**Notes:** City Position: Oppose

**SB 918 Law Officers' Retirement System; includes emergency medical technicians.**

*Summary as introduced:*

**Law-enforcement officers retirement system; emergency medical technicians.** Adds full-time salaried emergency medical technicians to the list of those who may receive benefits equivalent to those provided under the State Police Officers' Retirement System.

*Patrons:* Blevins; Delegate: Suit

01/11/05 Senate: Referred to Committee on Finance

01/14/05 Senate: Fiscal impact statement from VRS (SB918)

**Notes:** City Position: Support

**SB 959 Telecommunications and cable television; release of information.**

*Summary as introduced:*

**Telecommunications and cable television service by localities; release of information.**

Exempts from disclosure under the Freedom of Information Act any public record of a local government that contains confidential financial or proprietary information pertaining to its provision of telecommunications or cable television service.

*Patron:* Wampler

01/11/05 Senate: Referred to Committee on Commerce and Labor

**Notes:** City Position: Support

**SB 967 DMV; assessment of additional fees on certain drivers.**

*Summary as introduced:*

**Assessment of fees by Department of Motor Vehicles (DMV) on certain drivers; use of fees collected.** Requires the DMV Commissioner to impose and collect fees on drivers who have accumulated more than six net driver demerit points or have been convicted of reckless driving, aggressive driving, driving on a suspended or revoked license, DUI, or any other misdemeanor involving operation of a motor vehicle. These fees, less cost of collection, will be used to support issuance of bonds whose proceeds are to be used in the highway construction district wherein the offenses leading to the imposition of the fees were committed for transportation projects.

*Patrons:* O'Brien and Devolites Davis

01/11/05 Senate: Referred to Committee on Transportation

**Notes:** City Position: Oppose

**SB 970 Consumer Affairs, Department of; created.**

*Summary as introduced:*

**Department of Consumer Affairs.** Removes the Office of Consumer Affairs from the Department of Agriculture and Consumer Services and establishes it as the Department of Consumer Affairs (DCA). The DCA will be headed by a Director appointed by the Governor, and will serve as the central coordinating agency for receiving and investigating complaints by Virginia consumers of illegal, fraudulent, deceptive or dangerous practices.

*Patron:* O'Brien

01/11/05 Senate: Referred to Committee on General Laws

**Notes:** City Position: Support

**SB 1046 Local business license fees and taxes.**

*Summary as introduced:*

**Local business license fees and taxes.** Requires localities to impose the flat license fees now authorized by current law on all businesses or no businesses. If such fees are imposed, then in calculating any license tax that is imposed on gross receipts, the locality must deduct from such gross receipts the threshold amount of gross receipts on which it imposes the tax.

*Patron:* Wagner

01/12/05 Senate: Referred to Committee on Finance

**Notes:** City Position: Oppose

**SB 1051 Real estate tax; changes in local relief programs.**

*Summary as introduced:*

**Local real estate tax relief programs.** Changes authorized local real estate tax relief programs by (i) changing the eligibility age from 65 years old to a person's eligibility age for full retirement benefits under Social Security, (ii) authorizing counties, cities, and towns to use the locality's median adjusted gross income of its married residents (as published by the Weldon Cooper Center for Public Service of the University of Virginia) as a total income limit for eligibility, and (iii) authorizing counties, cities, and towns to adjust the current net financial worth limit for inflation.

*Patrons:* Wagner and Puller

01/21/05 Senate: Read third time and passed Senate (39-Y 0-N)

01/21/05 Senate: Communicated to House

**Notes:** City Position: Support

**SB 1084 Fingerprints; increases fees for noncriminal prints.**

*Summary as introduced:*

**Criminal procedure; fee for fingerprints.** Increases fingerprint fees for noncriminal prints from \$5 per card to \$10 for the first card and \$5 for each successive card.

*Patron:* Ticer

01/12/05 Senate: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**SB 1087 Deferred real estate tax; allows locality to establish interest rate.**

*Summary as introduced:*

**Deferred real estate tax; interest rate.** Allows a local governing body to establish the interest rate applicable to deferred real estate tax payments, not to exceed the rate established by the Internal Revenue Code. Currently, interest for the deferred payment is set as the rate established by the Internal Revenue Code.

*Patrons:* Whipple and Ticer

01/21/05 Senate: Read third time and passed Senate (39-Y 0-N)

01/21/05 Senate: Communicated to House

**Notes:** City Position: Support

**SB 1144 Domestic Violence and Prevention Services Unit; established.**

*Summary as introduced:*

**Domestic violence and prevention services.** Establishes the Domestic Violence and Prevention Services Unit in the Department of Social Services. In coordination with the Adult and Child Protective Services Units, the Domestic Violence and Prevention Services Units shall (i) support, strengthen, evaluate, and monitor community-based domestic violence programs funded by the Department and act as the administrator for state grant funds and the disbursement of federal funds, (ii) collaborate with the Statewide Domestic Violence Coalition in developing and implementing community-based programs to respond to and prevent domestic violence, (iii) establish minimum standards of training and provide educational programs to train workers in the fields of child and adult protective services in local departments and community-based domestic violence programs

funded by the Department to identify domestic violence and provide effective referrals for appropriate services, (iv) work with the Statewide Domestic Violence Coalition to implement methods to preserve the confidentiality of all domestic violence services records (v) work collaboratively with the Statewide Domestic Violence Coalition to operate the Virginia Family Violence and Sexual Assault 24-hour toll-free hotline and the Statewide Domestic Violence Database (Vadata), and (vi) promote interagency collaboration and cooperation to facilitate the appropriate response to victims of domestic violence.

*Patron:* Deeds

01/12/05 Senate: Referred to Committee on Rehabilitation & Social Services

**Notes:** City Position: Support

**SB 1191 Indoor Clean Air Act; smoking restrictions, civil penalty.**

*Summary as introduced:*

**Virginia Indoor Clean Air Act; civil penalties.** Prohibits smoking indoors in most buildings or enclosed areas frequented by the public. Exceptions are provided for (i) private homes, residences, and automobiles; (ii) private functions; hotel, or motel rooms clearly designated as "smoking" rooms; (iii) hotel or motel rooms clearly designated as "smoking" rooms so long as such rooms do not exceed 25 percent of the total accommodations within the establishment; (iv) bar or lounge areas separately enclosed from any establishment in which smoking is prohibited; (v) specialty tobacco stores; and (vi) private separately enclosed office or work areas that are not entered by the general public unless a person who works in such private separately enclosed office or work area objects to smoking in such area. Signs must be posted in any exempt building or area when smoking is allowed. The Board of Health and the Commissioner of Labor and Industry will jointly promulgate regulations to enforce these requirements.

*Patrons:* Mims, Edwards and Ticer

01/12/05 Senate: Referred to Committee on Education and Health

**Notes:** City Position: Support

**SB 1195 Retail Sales and Use Tax; exemptions include public transportation services.**

*Summary as introduced:*

**Sales and use tax exemption; public transportation.** Restores a sales and use tax exemption for tangible personal property sold or leased to any entity owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services. The bill declares that an emergency exists and is effective beginning September 1, 2004.

*Patrons:* Lambert and Saslaw; Delegate: Miles

01/19/05 Senate: Reported from Finance (15-Y 0-N)

01/21/05 Senate: Read second time and engrossed

**Notes:** City Position: Support (applies to DASH)

**SB 1199 Retail petroleum products sales facility; required by ordinance to remove and restore site.**

*Summary as introduced:*

**Local ordinance requiring removal of petroleum facility improvements; penalty.** Authorizes

any locality to provide by ordinance that the owner of improvements at a motor fuels retail facility, within three years after the premises cease to be used as such a facility, shall remove all improvements and grade the surface, and thereafter shall maintain the surface in a natural or vegetated state until another use is established on the site.

*Patron:* Williams

01/12/05 Senate: Referred to Committee on Local Government

**Notes:** City Position: Support; try to change 3-year requirement to 1 year.

**SB 1206 Affordable housing; localities prohibited from receiving contributions.**

*Summary as introduced:*

**Affordable housing.** Prohibits a locality from requesting or receiving contributions for affordable housing except pursuant to an ordinance adopted in accordance with provisions granting bonus density or bonus height in exchange for such contributions.

*Patron:* Mims

01/12/05 Senate: Referred to Committee on Local Government

**Notes:** City Position: Oppose

**SB 1214 Early childhood education; availability in all school divisions for 4 & 5 year olds.**

*Summary as introduced:*

**Early childhood education.** Requires all school divisions to provide early childhood education programs for 4 and 5 year olds who are not eligible to attend kindergarten or at-risk early childhood education programs and whose parents wish to enroll them in such programs. These programs must be coordinated with the current at-risk early childhood programs, and meet the standards established by the Board of Education. The Board of Education must promulgate regulations to implement the orderly phase-in of these programs with the current programs for at-risk 4 and 5 year-olds who are not eligible for kindergarten.

*Patron:* Edwards

01/12/05 Senate: Referred to Committee on Education and Health

**Notes:** City Position: Support only if fully funded by the State.

**SJ 275 Constitutional amendment; exempts certain property from taxation.**

*Summary as introduced:*

**Constitutional amendment; property exempt from taxation.** Authorizes the General Assembly to enact legislation that will permit localities to provide a partial exemption from real property taxation for real estate and associated new structures and improvements in conservation, redevelopment, or rehabilitation areas.

*Patron:* Edwards

12/27/04 Senate: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**SJ 324 Misdemeanors; JLARC to study needs of patients found not guilty by reason of insanity.**

*Summary as introduced:*

**Study; patients found not guilty of a misdemeanor by reason of insanity.** Directs the Joint Legislative Audit and Review Commission to study the needs of patients found not guilty of a misdemeanor by reason of insanity. Objectives of the study include (i) determining appropriate treatment of acquittees; (ii) reviewing and revising diagnostic categories that are amenable to treatment and therefore eligible for inclusion as a possible NGRI defense; (iii) examining discharge alternatives that will expedite return to the community as well as free up acute care psychiatric beds; and (iv) exploring the advisability and feasibility of coordination between the Department of Mental Health, Mental Retardation and Substance Abuse Services, local community services boards and the criminal justice system when an acquittee violates conditions of release that are not related to a psychiatric illness and not appropriate for rehospitalization.

*Patron:* Puller

01/11/05 Senate: Referred to Committee on Rules

**Notes:** City Position: Support

**SJ 340 Constitutional amendment; property exempt from taxation.**

*Summary as introduced:*

**Constitutional amendment; property exempt from taxation.** Amends Constitution to exempt privately owned motor vehicles used for nonbusiness purposes from state and local taxation.

*Patron:* Hanger

01/11/05 Senate: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**SJ 362 Constitutional amendment; tax relief for persons 65 or older.**

*Summary as introduced:*

**Constitutional amendment; local real estate tax relief.** Allows localities, by ordinance, to exempt, defer, or freeze the real estate taxes of persons 65 or older or permanently and totally disabled regardless of annual income or financial worth.

*Patrons:* Wagner and Puller

01/12/05 Senate: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**SJ 384 Constitutional amendment; assessment of real property.**

*Summary as introduced:*

**Constitutional amendment; assessment of real property.** Provides that beginning with the 2008 tax year, real property shall be assessed for tax purposes at no more than 102 percent of the assessed value of such property in the preceding tax year. However, if real property is sold, transferred, improved, or rezoned at the owner's request, it shall be assessed at fair market value for the tax year in which such event occurs. The assessment shall then be subject to the two percent limitation in subsequent years until the property is again sold, transferred, improved, etc.

*Patron:* Hanger

01/12/05 Senate: Referred to Committee on Privileges and Elections

**Notes:** City Position: Oppose

**Attachment 2**  
Current Status of City Package Bills  
January 21, 2005

**HB 578 Mentally ill; procedure for issuance of temporary detention orders.**

*Summary as introduced:*

**Temporary detention petitions.** Allows parties and witnesses to appear by way of two-way audio or video systems in temporary detention hearings for involuntary psychiatric patients.

*Patron:* Hamilton

01/18/05 House: VOTE: PASSAGE (93-Y 0-N)

01/19/05 Senate: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HB 1558 Traffic signals; use of photo-monitoring in certain localities.**

*Summary as introduced:*

**"Photo-red" traffic light signal enforcement.** Eliminates the July 1, 2005, "sunset" on local "photo-red" traffic light signal enforcement programs, but limits such programs to named localities wherein "photo-red" programs are already in effect.

*Patrons:* Tata, Eisenberg and Petersen

12/06/04 House: Referred to Committee on Militia, Police and Public Safety

**Notes:** City Position: Support

**HB 1633 Affirmation of Marriage Act; abolished.**

*Summary as introduced:*

**Domestic relations; Affirmation of Marriage Act.** Repeals statute that prohibits a civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage; voids such an arrangement entered into in another state or jurisdiction; and makes contractual rights created thereby void and unenforceable.

*Patrons:* Van Yahres, Bell, Brink, Ebbin and Plum

12/16/04 House: Referred to Committee for Courts of Justice

01/14/05 House: Assigned to C. J. sub-committee: Civil Law

**Notes:** City Position: Support

**HB 1868 Traffic signals; extends sunset on use of photo-monitoring systems, report.**

*Summary as introduced:*

**Photo-red traffic light signal enforcement.** Extends the July 1, 2005, sunset until July 1, 2006, and asks VCU's Transportation Safety Training Center Interdisciplinary Crash Investigation Team to report to the 2006 Session on the impact of photo-red programs on safety and the degree to which objections to such programs in other states apply to those in Virginia as well.

*Patron:* Brink

01/06/05 House: Referred to Committee on Militia, Police and Public Safety

01/19/05 House: Fiscal impact statement from DPB (HB1868)

**Notes:** City Position: Support

**HB 1909 Absentee ballots; no qualification for voters to use.**

*Summary as introduced:*

**Elections; absentee voting.** Allows qualified voters to vote absentee for any reason. Eliminates the present statutory list of specific reasons entitling a voter to cast an absentee ballot.

*Patron:* Baskerville

01/07/05 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**HB 2095 Traffic signals; extends sunset on use of photo-monitoring systems.**

*Summary as introduced:*

**"Photo-red" programs.** Postpones the July 1, 2005, sunset to July 1, 2007.

*Patrons:* Hugo and Rust

01/11/05 House: Referred to Committee on Militia, Police and Public Safety

**Notes:** City Position: Support

**HB 2153 Absentee ballots; no qualification for voters to use.**

*Summary as introduced:*

**Elections; absentee voting.** Allows qualified voters to vote absentee for any reason. The bill eliminates the present statutory list of specific reasons entitling a voter to cast an absentee ballot.

*Patron:* Amundson

01/11/05 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**HB 2490 Same sex unions prohibited, rights of ownership or devising of joint property, etc.**

*Summary as introduced:*

**Domestic relations; lawful contracts.** Provides that the prohibition against a civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage shall not abridge the right of any person to enter into a lawful contract that pertains to the ownership or devising of joint property, the maintenance of personal health, or the protection of private assets.

*Patrons:* Petersen and Albo

01/12/05 House: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HB 2546 Electric generating facilities; emissions reductions in severe nonattainment area.**

*Summary as introduced:*

**Severe nonattainment areas.** Directs any electric generating facility in a severe nonattainment area to meet the following emission reduction requirements by January 1, 2009: (i) reduce sulfur dioxide by at least 75 percent from levels allowed under full implementation of the federal Clean Air Act Phase II sulfur dioxide requirements, (ii) limit annual nitrogen oxide to no more than 25 percent of the facility's 1997 emissions, and (iii) remove 99 percent of particulate matter PM10 and smaller from emissions as compared to the unit's emissions without environmental controls. A facility may alternatively enter into a consent decree to cease operations by January 1, 2014.

*Patron:* Van Landingham

01/12/05 House: Referred to Committee on Agr., Chesapeake & Natural Res.

**Notes:** City Position: Support

**HB 2636 Absentee ballots; no qualification for voters to use.**

*Summary as introduced:*

**Elections; absentee voting.** Allows qualified voters to vote absentee for any reason. Eliminates the present statutory list of specific reasons entitling a voter to cast an absentee ballot.

*Patrons:* Ebbin, Albo, Amundson, Bland, Brink, Callahan, Dillard, Eisenberg, Petersen, Reese, Rust, Scott, J.M., Sickles, Van Landingham and Watts; *Senators:* Puckett, Puller, Reynolds, Ticer and Whipple

01/12/05 House: Referred to Committee on Privileges and Elections

**Notes:** City position: Support

**HB 2638 Wages; employer who fails or refuses to pay wages is guilty of embezzlement.**

*Summary as introduced:*

**Failure or refusal to pay wages; penalty.** Provides that an employer who fails or refuses to pay wages is guilty of embezzlement. Failure to pay wages payable immediately upon rendering of the services (e.g., such as wages paid to day laborers) gives rise to a presumption that the employer acted with wrong and fraudulent intent.

*Patrons:* Ebbin, Brink, Callahan, Eisenberg, Moran, Petersen, Plum and Van Landingham; *Senators:* Lucas, Ticer and Whipple

01/12/05 House: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HB 2675 Admissions taxes; classification.**

*Summary as introduced:*

**Admissions taxes; classification.** Designates motion pictures as a separate class of events for purposes of imposing the local admissions tax.

*Patrons:* Ebbin; *Senator:* Ticer

01/12/05 House: Referred to Committee on Finance

01/18/05 House: Assigned to Finance sub-committee: #2

**Notes:** City Position: Support

**HB 2802 Confidential communications.**

*Summary as introduced:*

**Confidential communications.** Provides that all written and oral communications between a victim and a domestic violence or sexual assault advocate, serving in the capacity of an advocate, or an interpreter for an advocate or a victim, shall be confidential and shall not be subject to disclosure in any judicial or administrative proceeding, without the written consent of the victim.

*Patron:* Moran

01/18/05 House: Referred to Committee for Courts of Justice

**Notes:** City Position: Support

**HJ 555 Constitutional amendments; Governor's term of office.**

*Summary as introduced:*

**Constitutional amendments; Governor's term of office; Board of Education.** One amendment permits the Governor to succeed himself in office. The amendment allows two terms (either in succession or not in succession) but prohibits election to a third term. A second amendment provides for the appointment of the members of the Board of Education as follows: four members by the Governor; three members by the House of Delegates; and two members by the Senate. Presently, the Constitution provides that all members are appointed by the Governor.

*Patron:* Purkey

12/03/04 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**HJ 557 Constitutional amendment; Governor's term of office.**

*Summary as introduced:*

**Constitutional amendment; Governor's term of office.** Permits the Governor to succeed himself in office. The amendment allows two terms but prohibits election to a third term. The amendment allows Governors elected in 2005 and thereafter to serve two successive terms.

*Patrons:* Purkey, Amundson, Bland, Brink, Councill, Eisenberg, Landes, May, Parrish, Rust, Scott, J.M. and Van Yahres

12/03/04 House: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**SB 732 Traffic signals; use of photo-monitoring systems in any locality.**

*Summary as introduced:*

**Photo-monitoring systems to enforce traffic light signals.** Expands photo-monitoring systems for traffic signal enforcement to all of Virginia instead of specified localities.

*Patron:* Colgan

01/19/05 Senate: Read third time and passed Senate (30-Y 10-N)

01/19/05 Senate: Communicated to House

**Notes:** City Position: Support

**SB 780 Traffic signals; extends sunset on use of photo-monitoring systems.**

*Summary as introduced:*

**"Photo-red" programs.** Postpones the July 1, 2005 sunset programs to July 1, 2007.

*Patrons:* Mims; Delegates: May and Rust

01/19/05 Senate: Read third time and passed Senate (32-Y 8-N)

01/19/05 Senate: Communicated to House

**Notes:** City Position: Support

**SB 1079 Employment discrimination; causes of action in cases alleging.**

*Summary as introduced:*

**Employment discrimination; causes of action in cases alleging employment discrimination.**

Provides that the current limitation of 180 days from the discharge for bringing a court action

alleging employment discrimination is extended in instances where the employee has filed a discrimination complaint with the Virginia Human Rights Council or a local human rights or human relations agency. In such instances the time for bringing the court action is 90 days from the date that the Council or a local human rights or human relations agency or commission has rendered a final disposition on the complaint.

*Patron:* Ticer

01/19/05 Senate: Reported from General Laws (15-Y 0-N)

**Notes:** City Position: Support

**SB 1099 Motor fuels tax; additional tax in Northern Virginia transportation district.**

*Summary as introduced:*

**Sales tax on motor fuels.** Increases from two to four percent the sales tax on fuels in every county or city in the Northern Virginia Transportation District.

*Patrons:* Whipple and Ticer; *Delegates:* Brink, Ebbin and Eisenberg

01/12/05 Senate: Referred to Committee on Finance

**Notes:** City Position: Support

**SB 1139 Income tax, state and corporate; limits land preservation tax credits.**

*Summary as introduced:*

**Land preservation tax credit.** Provides an aggregate limit of \$600,000 in tax credit for each parcel of land donated under the Virginia Land Conservation Incentives Act of 1999. The bill also caps the amount of unused tax credit that may be transferred by the land donor to the maximum amount of credit that may be taken by such person.

*Patron:* Hanger

01/12/05 Senate: Referred to Committee on Finance

**Notes:** City Position: Oppose

**SB 1226 Absentee ballots; no qualification for voters to use.**

*Summary as introduced:*

**Elections; absentee voting.** Allows qualified voters to vote absentee for any reason. Eliminates the present statutory list of specific reasons entitling a voter to cast an absentee ballot.

*Patron:* Ticer

01/12/05 Senate: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**SJ 259 Constitutional amendment; restoration of civil rights for nonviolent felons.**

*Summary as introduced:*

**Constitutional amendment; restoration of civil rights for certain felons.** Authorizes the General Assembly to provide by general law for the restoration of civil rights for persons convicted of nonviolent felonies who meet the conditions prescribed by law.

*Patron:* Miller

10/14/04 Senate: Referred to Committee on Privileges and Elections

**Notes:** City Position: Support

**SJ 440 Analysis of Potential for Alternate Dedicated Revenue Source for the Washington Metro Area Transit Authority.**

*Summary as introduced:*

**Resolution supporting recommendations on a dedicated funding source for WMATA.**

Expresses the support of the General Assembly for the recommendations of the Blue Ribbon Panel on Alternate Dedicated Revenue Sources for WMATA.

*Patrons:* Whipple, Colgan, Howell, Puller, Saslaw and Ticer; *Delegates:* Callahan, Moran, Plum and Sickles

01/20/05 Senate: Referred to Committee on Rules

**Notes:** City Position: Support

**Attachment 3**

**Telecommunications Tax Revisions, Industry Proposal vs. Current Taxes**

Tax/Issue	Existing Law	New Proposal
Local Consumer Utility Tax on Residential Land Lines	May be assessed at up to \$3/month; Alexandria grandfathered at higher rate of 25% on all local service charges	5% communications tax on: <ul style="list-style-type: none"> <li>• land line charges</li> <li>• cell phone charges</li> <li>• includes long distance</li> <li>• voice over internet charges</li> <li>• cable TV charges</li> <li>• satellite TV chargees</li> </ul> Right-of-way fee on TV cable (about \$.62/line/month).  All above fees go into Statewide Communications Fund. See below for distribution.
Local Consumer Utility Tax on Cell Phones	May be assessed at up to \$3/month; not assessed in Alexandria	See above
Television Cable Franchise Fee	Locality may assess up to 5% on revenues; City assesses 3%	See above
E-911 on land lines	May be up to \$3/month per line; currently \$.50/month in Alexandria	\$0.75/month per line
E-911 on wireless phones (state tax)	\$0.75/month per line; goes to State Wireless Board, which redistributes in part to localities	No change proposed
Excess BPOL	State maximum: 0.5% of revenues. Alexandria grandfathered at 1.03%	Eliminated
VA Relay Center Tax	State tax set by State Corporation Commission to pay for services to hard of hearing; no City revenues	Eliminated
Total revenues	FY 04: \$9.2 M + cable (\$1M in 2003)	Projected to be same plus or minus growth. Divided among localities based on their percentage of total statewide communications tax revenues in FY 04, after subtractions made for small towns and VA Relay Center.

**Attachment 4**

**Verizon Cable Television Franchise Proposal vs. Current Law**

Issue	Existing Law/City practice	Verizon Proposal
Development of Franchise Agreement	Must be negotiated	Existing telephone carrier can piggyback on existing cable TV franchise
Franchise Fee	Up to 5%; City fee is now 3%	5% (to match telecommunications tax proposal)
PEG channels--number	Up to 8 (4 currently activated in City)	the greater of 5 or the number provided by the existing cable operator on 1/1/05
PEG channels--who operates	Comcast	Locality or its non-profit designee
Length of Franchise	Maximum of 20 years; current Comcast: 15 years	20 years, renewable for 20 years
Non-franchise fee remuneration of locality	Negotiable; for instance, City receives funds for I-net; 6 free 30-minute productions annually, and \$500,000 (adjusted for inflation) annual capital grants.	1% of gross revenues to support I-net, or higher fee (but no higher than existing cable franchise) after a public hearing
Area served	Entire City	Not required to serve entire locality
Consumer protection	Various items included in franchise agreement (e.g., amount of time for Comcast to answer consumer phone calls)	Minimally, require compliance with federal requirements.
Renewal of existing cable franchise	Must renegotiate franchise	Can operate under "Verizon" framework

January 22, 2005

## **REVISIONS NEEDED TO VIRGINIA'S POLICIES AFFECTING ASSISTED LIVING FACILITIES**

Assisted Living Facilities (ALFs) are a critical element in Virginia's mix of long term care services for seniors and persons with disabilities needing assistance with Activities of Daily Living\* and who prefer to live in a facility environment.

Virginia's strict eligibility requirements for Nursing Home admission result in heavier reliance upon ALFs than in other states. This position mandates that Virginia's requirements for minimum levels of care are strong and appropriate.

**We have problems – well documented problems – And complex problems  
CANNOT BE SOLVED WITH SIMPLE SOLUTIONS!**

Insuring that Virginia's ALFs are **SAFE** and meet minimum **QUALITY CARE** standards requires reform in all – not one or two – but all of four major areas.

### **INFORMED CONSUMERS**

ALFs **must** be required to provide accurate & complete information to allow prospective residents to choose the facility that best meets their needs.

### **STAFF TRAINING and ADMINISTRATION**

ALFs **must** have staff sufficiently trained for the services provided AND administrators with oversight responsibilities must meet standardized levels of training and expertise, demonstrated to consumers via a new ALF Administrator Licensing.

### **COMPLIANCE WITH VIRGINIA'S REGULATIONS**

ALFs **must** be held accountable when the Commonwealth's established minimum safety and care requirements are not met.

### **PUBLIC FUNDING**

ALFs **must** have sufficient funding provided when State funds are used to support the operating costs of ALFs who serve the poorest Virginians in need of ALF services.

- ✓ Auxiliary Grant funding must be increased above the current rates;
- ✓ Increase the number of local LTC Ombudsmen

## A 4-POINT PLAN TO SAFEGUARD ASSISTED LIVING RESIDENTS

Virginia must assure the quality of licensed Assisted Living Facilities and the safety of residents. Reform is mandatory, and must include policy revisions that result in 1) an informed ALF consumer, 2) staff and administrators who are qualified and appropriately trained, 3) enforcement of ALF licensure regulations, and 4) sufficient funding to support the cost of care for low-income Virginians.

### 1. INFORMED CONSUMER

**Assisted Living Facilities must be required to provide accurate and complete information to prospective residents for purposes of sound comparison among facilities, supporting decisions appropriate for that individual.**

Disclosure documents must be provided to consumers that are clear, consistent with the admissions contract, and that include the following:

- ✓ Services provided;
- ✓ Fees, including clear information about what services are included in the base fee, and any fees for additional services;
- ✓ Admission, transfer, and discharge criteria, including criteria for transfer to another level of care within the same facility or complex;
- ✓ General number and qualifications of staff on each shift;
- ✓ Range, frequency and number of activities provided for residents.

With full disclosure of the information detailed above prospective residents and their families can become informed consumers when choosing an Assisted Living Facility. Residents rely upon the Virginia Licensure as a "Stamp of Quality". With full disclosure on services, fees, and policies, residents can become an active participant in service monitoring.

## **2. STAFF QUALIFICATIONS & TRAINING**

### **A. Licensure of Assisted Living Administrators**

Establish a licensure requirement for assisted living facility administrators, and create a Board of Long-Term Care Administrators that would have responsibility for licensure of both nursing home administrators and assisted living administrators.

Licensure should 'raise the bar' of minimum qualifications required for an individual to operate an assisted living facility. In addition to increased educational requirements, candidates' overall performance records and pattern of fiscal and operational management should also be reviewed as part of assessing 'fitness' for licensure. Implementation of these regulatory changes may allow a discrete time period for current operators to qualify for licensure (e.g. six months), but there should be no automatic 'grandfathering' of current operators.

### **B. Training and Certification of All Direct Care staff**

Require that all direct care staff in any licensed Assisted Living Facility be "Certified Nursing Assistants."

Under federal law, direct care staff in nursing homes nationally must be certified nursing assistants. Because of the stringency of screening to qualify for nursing home care in Virginia, a large number of assisted living residents in this state have complex care needs and would be nursing home candidates in other states. The level of training of assisted living direct care staff in Virginia does not ensure that residents are cared for safely and adequately. Furthermore, the lack of any requirement of qualified clinical supervision of minimally trained personnel poses a serious risk to residents.

### **C. Training of Medication Aides**

Require ALF staff serving as "medication aides" to be Certified Nursing Assistants and to receive enhanced training specific to the distribution of medications.

Currently, personnel administering complex medication regimens to residents in assisted living facilities may have limited skills, knowledge and even limited ability to read and write English. All staff who work as

medication aides should be required to be certified nursing assistants, and be required to complete the 32 hour approved medication aide training course (provided by a qualified instructor) and pass a competency test. The establishment of this level of basic qualifications is particularly critical in the assisted living setting where there is often little or no clinical supervision. Requirements that Medication Aides competently speak and write English should be enforced.

### **3. COMPLIANCE WITH VIRGINIA'S REGULATIONS**

**Establish a tiered system of enforcement tools that allow swift and appropriate consequences for failure to comply with the Regulations governing the licensure of ALFs.**

Increase from \$500 to \$10,000 the maximum amount an ALF may be fined for being out of compliance with licensure requirements, a penalty option when a monetary fine is the most appropriate sanction to remedy egregious errors in performance.

Establish an expedited system for suspension of licensure if imminent danger to resident exists, developed in conjunction with mechanisms to impose qualified temporary management or receivership, when appropriate to prevent the displacement of residents.

Infractions in compliance with Regulations governing the licensure of Assisted Living Facilities range from minor to serious and life threatening. Infractions may be incidental or repeated with little regard for the responsibility that comes with the operation of a long-term care facility such as the ALF. Sanctions for infractions should be appropriate to the level of risk to residents, and ALFs repeatedly found to be noncompliant with DSS requirements for correction must experience appropriately escalating costs. DSS must be provided with the tools necessary to enforce regulations if licensure is to provide residents and their family with any assurance of quality care.

Strengthen the DSS Division of Licensing by ensuring an adequate number of well-trained inspectors to provide thorough and consistent oversight and enforcement.

Restructure DSS inspection teams to include persons with expertise in mental health care, dementia care, and clinical nursing for inspections of facilities providing care for populations with special care needs (e.g., mental illness). Standards and enforcement should be appropriate to the populations with special needs.

DSS cannot be effective in providing for ALF Licensure compliance without the required number of staff and the level of expertise necessary for appropriate inspection.

#### **4. PUBLIC FUNDING**

**A. Increase in the Auxiliary Grant level by 100% to provide for the realistic cost of quality care for residents. Eliminate local share of Auxiliary Grant funding.**

It is clear that the current Auxiliary Grant level (\$28/day) is not adequate to realistically support the cost of providing quality care. Doubling the rate would bring it more in line with actual care costs.

**B. Increase the funding for the Long-Term Care Ombudsman Program to reach the Institute of Medicine's recommended minimum standard of 1 ombudsman to every 2000 long-term care beds.**

As advocates for the most vulnerable and those who may have no one else to speak out for them and assist with care problems, Long-Term Care Ombudsmen form a critical part of the 'safety net' for those who live in assisted living facilities. Ombudsmen not only serve to alert state licensing authorities of potentially life-threatening infractions, but can successfully mediate resident complaints with facility administrators to improve quality and licensure compliance.

At current funding levels, each Local Ombudsman is responsible for almost twice the recommended number of beds (combined nursing home and assisted living beds), thus limiting the ability of the program to effectively reach assisted living residents. In addition, the program's resources are stretched still further in that Virginia has extended the responsibilities of the Long-Term Care Ombudsman Program to include coverage of community-based long-term care recipients.

This proposal is made with the collaborative support of:

Virginia Association of Area Agencies on Aging (V4A)  
Virginia Chapters of the Alzheimer's Association  
Virginia Health Care Association (VHCA)  
Virginia Association of Non-Profit Homes for the Aging (VANHA)  
AARP Virginia  
Northern Virginia Aging Network (NVAN)  
The Consumer Consortium on Assisted Living  
The Office of the State Long-Term Care Ombudsman

**\*What is an ADL?**

**Levels of care criteria and definition of "activities of daily living" relative to criteria for admission to an assisted living facility in Virginia:**

"Standards and Regulations for Licensure of Assisted Living Facilities in Virginia" define activities of daily living as ***bathing, dressing, toileting, transferring, bowel control, bladder control, eating/feeding***. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

**CRITERIA FOR RESIDENTIAL ASSISTED LIVING IN AN ALF:**

1. Rated dependent in only one of seven ADL's; OR
2. Rated dependent in one or more of four selected IAD's (independent activities of daily living); OR
3. Rated dependent in medication administration.

**CRITERIA FOR ASSISTED LIVING IN AN ALF:**

1. Rated dependent in two or more of seven ADL's; OR
2. Rated dependent in behavior pattern.