

1-27-04

City of Alexandria

MEMORANDUM

DATE: JANUARY 26, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHILIP SUNDERLAND, CITY MANAGER *PS*

FROM: BERNARD CATON, LEGISLATIVE DIRECTOR *BC*

SUBJECT: RECOMMENDATIONS AND STATUS REPORT (NO. 1) ON LEGISLATION
INTRODUCED AT THE 2004 GENERAL ASSEMBLY SESSION

ISSUE: Recommendations and status report (No. 1) on legislation introduced at the 2004 General Assembly Session.

RECOMMENDATION: That City Council approve the following legislative positions as recommended by City Council's Legislative Subcommittee (Mayor Euille and Councilwoman Woodson):

- (1) Recommended Positions on Bills of Importance to the City, January 23, 2004 (Attachment 1); and
- (2) Regional position on General Principles for Northern Virginia Transportation Issues (Attachment 2).

DISCUSSION: The 2004 General Assembly Session began on January 14, and is scheduled to adjourn on March 13, although many legislators expect the Session to last beyond this date to deal with tax reform and the budget. The deadline for introduction of legislation was Friday, January 23.¹ At least 2,598 bills and resolutions have been introduced (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). The major issues to be addressed by the General Assembly this year will be tax reform and the biennial budget.

¹There 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.

City Package. The following bills from the City's legislative package have been introduced (Attachment 3 is a status report on these bills):

- HB 874, which seeks to grant the City the authority, through the special use permit process, to increase a project's density in exchange for the provision of affordable housing, was passed unanimously by the House Committee on Counties, Cities and Towns, and awaits action by the full House.
- SB 873, which sought to amend hate crimes laws so that they apply if crimes are directed against a person because of the person's sexual orientation, was defeated by the Senate Courts of Justice Committee.
- A subcommittee of the House Agriculture, Conservation, and Natural Resources Committee has recommended against passage of HB 113, which would have required certain power plants in ozone non-attainment areas, such as the Mirant plant, to lower their sulfur dioxide, nitrogen dioxide, and particulate emissions. The full committee is expected to follow the subcommittee's recommendation when it considers the bill on Wednesday.
- Legislation to amend the City Charter (SB 472) is scheduled for consideration by the Senate Committee on Local Government on Tuesday. The bill proposes the following:
 - (1) to authorize the City to provide loans and grants to City and School employees who purchase homes within the City;
 - (2) to allow the City to authorize a private cause of action for violations of the City's Human Rights Ordinance, following such a finding by the City's Human Rights Commission;
 - (3) to revise Charter provisions on zoning so that they so that the Charter (a) preempts all general law provisions governing the initiation of zoning amendments; (b) states that any written or other notice requirements in the general law that are applicable to rezonings or text amendments apply only at the rezoning or text amendment stage of the process, and do not have to be repeated prior to ordinance adoption; and (c) states that the zoning penalty authority conferred on the City by the Charter preempts any general law limitations on zoning penalties; and
 - (4) to authorize the City to provide automatic annual cost-of-living increases to the salaries of the Mayor and Council.
- SB 665 seeks to protect the confidentiality of communications between victims of sexual assault or domestic violence and their advocates. It awaits action by the Senate Courts of Justice Committee
- Several bills have been introduced to eliminate the sunset clause in the legislation authorizing localities to use red light cameras (this authorization is scheduled to expire July 1, 2005). 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.

- SB 451, SB 101, and HB 539 all seek to require drivers to stop (rather than simply yield) for any pedestrian using a crosswalk at a non-signalized intersection on a road where the legal maximum speed does not exceed a given moderate speed. The Senate bills have been weakened by Senate Transportation Committee amendments (the amendments would require drivers to “yield the right-of-way and stop if necessary,” which many observers feel is simply a restatement of current law rather than an improvement of it) and await action by the full Senate. The House bill was passed by a Transportation Subcommittee without this amendment and awaits action by the full committee.
- SB 458 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.
- HB 838 would extend in-state tuition rates to certain undocumented students, as proposed by Governor Warner to the 2003 General Assembly, while HB 156 would prohibit such undocumented individuals from even enrolling in state colleges and universities. Both these bills await action by the House Education Committee.
- HB1104 and HJR 204 propose 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 (constitutional amendments must be approved in two separate General Assembly sessions, with a legislative election taking place between the sessions). The 2004 legislation awaits action by the House Committee on Privileges and Elections.
- HB 825, which will allow the Virginia Housing Development Authority (VHDA) to finance both mixed-income and mixed-use projects, is awaiting action by the House Committee on General Laws.
- Various bills have been introduced seeking to strengthen laws dealing with gangs (the City supports legislation to expand the list of gang-related crimes that are considered predicate criminal acts, and to create a rebuttable presumption against bail for alleged violations of criminal street gang statutes); all of these measures await action by the House and Senate Courts of Justice Committees.

Tax Reform. As expected, tax reform is the major issue before the 2004 General Assembly Session. A number of proposals have been introduced to change state income, sales, tobacco, motor fuel, car, estate, and business taxes. In general, the Governor, the Senate and House Democrats support significant reform that will increase revenues, lower the tax burden on low income Virginians, and increase rates for upper income residents. Most House Republicans, led by Speaker William Howell

of Stafford, are resisting increases to taxes but say they are willing to consider raising “user fees” (in this case, a euphemism for cigarette and motor fuels taxes).

Four major bills have been introduced to initiate tax reform, and the components of each are listed for comparison on Attachment 4. The first two of these, those of Governor Warner and Senator Chichester (who chairs the Senate Finance Committee), are expected to receive the most attention from the Senate, which is certain to approve a tax reform bill. Senator Chichester’s bill would produce nearly three times as much revenue as Governor Warner’s (\$1.66 billion versus \$0.52 billion in FY 05). Senator Chichester’s bill also provides much more money for transportation than Governor Warner’s (over 40 percent of the new Chichester revenues would go to transportation projects). Finally, the Chichester plan would likely provide the City with more education money than the Governor’s plan. Senator Chichester’s legislation would also replace general fund appropriations given to localities for car tax reimbursement with dedicated state sales tax revenues. The disadvantage to this is that localities with fast-growing personal property tax revenues, such as those in Northern Virginia, would likely see these revenues grow more slowly if the Chichester proposal is enacted. Attachment 5, prepared by the Richmond consulting firm, Fiscal Analytics, is an analysis of the revenues that would result from each of the components included in the Warner and Chichester proposals.

While some have complained that the Governor’s plan is too modest, he has responded that his proposal is politically more defensible than a more ambitious one. Nevertheless, the Governor has also indicated that he would not be opposed to legislation that raises more revenue than his proposal if such legislation can pass both the House and the Senate.

Motor Fuels Taxes. In addition to the Chichester tax reform plan, a number of other bills seek to increase the tax on motor fuels. It appears that both House and the Senate will support an increase to the motor fuels tax, which should result in an increase in state transportation revenues appropriated to the City (the amount the increase cannot be projected at this time) .

Northern Virginia legislative liaisons and transportation staff have developed a set of principles for transportation funding that they recommend for adoption by the local governing bodies. These principles (Attachment 2) seek to ensure that if any transportation allocation formulas are changed by the General Assembly, such changes help, not harm, Northern Virginia. Among the principles is support for funding the needs of Metro and public transit in general.

State Budget. In conjunction with tax reform, the state budget is likely to receive the most attention from the 2004 General Assembly. Staff provided Council with an analysis of the Governor’s proposal shortly after it was released last month (Attachment 6). As noted in that analysis, much of the funding earmarked for local governments and others (e.g., HB 599 local law enforcement and K-12 education) was linked to passage of the Governor’s tax reform proposal.

Last week, the House Appropriations Committee staff prepared a document which outlined cuts that may be required if tax reform is not passed (Attachment 7). Among the items identified for potential

reductions are funding for HB 599, SOQ, and English as a Second Language. The document also notes that even if all the proposed reductions were approved by the General Assembly, there would still be a \$260 million budget gap.

The House Appropriations and Senate Finance Committee are scheduled to recommend their amendments to the Governor's budget proposal on February 22. The two sets of recommendations must then be reconciled by a Conference Committee before the end of Session. Tax reform and the budget will be two of the last measures agreed to by the General Assembly.

Residential Rental Inspections. House Bill 1678 was introduced in the 2003 General Assembly Session on behalf of realtors and the apartment and office building industry to significantly limit the ability of local governments to operate residential rental inspection programs. It passed both houses of the General Assembly. This legislation would have required the City to significantly revise its Residential Rental Permit (RRP) program, which has been in place in its current form for over a quarter century. Inspections would have been allowed only for dwelling units which: (1) are located in a deteriorating area designated as a conservation or rehabilitation district, or in an area designated as blighted; and (2) have a greater number of building code violations than other dwelling units in the locality. The bill would have required the majority of units in a designated conservation or rehabilitation district to be over 20 years old. A fee of up to \$50 would have been authorized to cover the cost of inspections.

This legislation would have eliminated the City's ability to do annual proactive inspections of dwelling units, and could have led to the deterioration of significant numbers of rental properties in the City. After significant lobbying by local governments, Governor Warner vetoed the legislation.

In its 2004 Legislative Package, the City continues to oppose enactment of such legislation by the General Assembly. In spite of opposition by many local governments from all parts of the state, legislation has been introduced to eliminate rental inspection programs run by Alexandria and other cities, counties, and towns (HB 828). City staff will continue to work to defeat this legislation.

Living Wage. In June 2000, Alexandria adopted a living wage ordinance. This ordinance requires those firms that are awarded certain City service contracts to pay their workers a wage that meets or exceeds the federally established poverty guidelines. The purpose of this ordinance is to help these private sector employees who furnish services to the City, so that they can better provide for themselves and their families while contributing to society as productive workers.

The living wage ordinance is also helpful in furthering the goals of welfare reform. One of the problems that individuals here face when they enter the work force and leave government subsidies is that their wages are insufficient to pay for the bare necessities—food, shelter, transportation, child care, and medical care. The City's living wage ordinance is an attempt to help workers afford these necessities. Since the City's action, Charlottesville and Arlington have also adopted living wage ordinances.

In the 2001 Session, legislation was introduced to repeal the City's authority to adopt a living wage ordinance. After considerable work by the City and other living wage supporters, this legislation was defeated. Legislation to prohibit living wage programs has been reintroduced this year (SB 290 and SB 428).

Last week, a press conference was held in Richmond by local governments, organized labor, and the religious community, to highlight the need to defeat anti-living wage legislation. Councilman Ludwig Gaines attended and spoke in defense of the City's living wage program.

The City will continue to work against enactment of this legislation by the General Assembly.

VHDA Loan Eligibility. The Virginia Housing Development Authority (VHDA) is a State entity that makes loans for affordable housing to first-time home buyers with low and moderate incomes. VHDA loans are more attractive to home buyers because they generally require a lower down payment, a lower interest rate, or both.

Until recently, a VHDA regulation required that persons borrowing jointly for a single residence must be "related by blood, marriage, adoption or legal custodial relationship." This precluded unrelated couples, including engaged couples and same-sex couples, from receiving VHDA assistance. On July 25, 2003, VHDA repealed this provision. Anyone, or any couple, who satisfies VHDA's standard criteria and requirements is now eligible for its loans.

HB 187 proposes to prohibit VHDA from making mortgage loans to any individuals who are not related by blood, marriage or adoption. The City will work to defeat this bill.

STAFF:

Bernard Caton, Legislative Director
Michele Evans, Assistant City Manager

ATTACHMENTS:

Attachment 1 - Recommended Positions on Bills of Importance to the City, January 23, 2004

Attachment 2 - Proposed Regional position on General Principles for Northern Virginia Transportation Issues

Attachment 3 - Current Status of City Package Bills, January 23, 2004

Attachment 4 - Comparison of Major Tax Reform Proposals, 2004 Session

Attachment 5 - Comparison of Warner and Chichester Funding Plans (Source: Fiscal Analytics)

Attachment 6 - Memorandum on Governor Warner's Proposed 2005-2006 Biennial Budget
(December 29, 2003)

Attachment 7 - Where Do We Go From Here? (House Appropriations Committee staff)

Attachment 1

Recommended Positions on Bills of Importance to the City January 23, 2004

HB 66 Law-enforcement officer; penalty for impersonating.

Summary as introduced:

Impersonating an officer. Provides that any person who commits a felony crime against a person while impersonating an officer is guilty of a separate and distinct Class 6 felony.

Patrons: Cosgrove and Athey

01/14/04 House: Presented & ordered printed, prefiled 12/11/03 041318276

01/14/04 House: Referred to Committee for Courts of Justice

01/16/04 House: Fiscal impact statement from VCSC (HB66)

01/22/04 House: Fiscal impact statement from DPB (HB66)

Notes: City Position: Support

HB 80 Family assault; emergency protective orders.

Summary as introduced:

Emergency protective orders. Amends the section on emergency protective orders to make it consistent with §18.2-57.2, which makes assault and battery of a family or household member a crime. Section 18.2-57.2 requires that an emergency protective order be issued whenever a warrant for family assault is issued. This bill removes language that qualifies that mandate by requiring, in addition to the warrant, a finding that there will be probable danger of further acts of family abuse.

Patrons: Cox and Dudley

01/14/04 House: Presented & ordered printed, prefiled 11/21/03 041116284

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Support

HB 87 Mobile infrared transmitters; certain prohibited.

Summary as introduced:

Mobile infrared transmitters. Prohibits operation of motor vehicles equipped with mobile infrared transmitters that are used by emergency vehicles to change traffic light signals so as to afford those emergency vehicles the right of way. The bill does not apply to emergency vehicles responding to emergency calls. The provisions of this bill closely parallel the law (§ 46.2-1079) prohibiting use of radar detectors.

Patrons: Lingamfelter, Cox, Griffith, Hamilton, Joannou, Morgan, Pollard, Sherwood, Tata, Ware, R.L. and Weatherholtz; *Senators:* Hanger and Potts

01/14/04 House: Presented & ordered printed, prefiled 12/16/03 042226380

01/14/04 House: Referred to Committee on Transportation

01/19/04 House: Assigned to Tra. sub-committee: 3

Notes: City Position: Support

HB 91 Business, Professional and Occupational License Tax (BPOL); license fees, rates and requirements.

Summary as introduced:

Business, Professional and Occupational Licensing Tax (BPOL); license fees, rates and requirements. Requires localities that impose the BPOL tax to (i) eliminate license fees by January 1, 2006, (ii) exempt the first \$100,000 of gross receipts from taxation by January 1, 2006, and (iii) reduce the several different rates currently in the Code to a flat rate of 20 cents per \$100 of gross receipts for license years beginning on and after January 1, 2006.

Patrons: Shuler and Baskerville

01/14/04 House: Presented & ordered printed, prefiled 12/16/03 041315508

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 2

01/17/04 House: Fiscal impact statement from TAX (HB91)

Notes: City Position: Oppose

HB 110 Budget, state; automatic reduction in general fund appropriations.

Summary as introduced:

Automatic reduction in general fund appropriations by Governor. Requires the Governor, whenever general fund revenue collections for a period of six months or more show that year-to-date revenue growth is in excess of one percent below the official estimate upon which the appropriation act is based for such fiscal year, to institute an across-the-board percentage reduction in general fund appropriations to all executive branch agencies, which shall equal at least one-half of the revenue shortfall. Such action shall be communicated to the chairmen of the money committees within five days of its adoption.

Patron: Purkey

01/14/04 House: Presented & ordered printed, prefiled 12/22/04 047487472

01/14/04 House: Referred to Committee on Appropriations

Notes: City position: Oppose

HB 153 Landlord and tenant; termination of tenancies, security deposit.

Summary as introduced:

Landlord and tenant law; termination of tenancies; security deposit. Amends the Landlord Tenant Act to make it consistent with the Residential Landlord Tenant Act concerning termination of month-to-month tenancies. The bill clarifies that a landlord may purchase commercial insurance for damage coverage in lieu of all or part of a security deposit and grants the landlord the authority to purchase renter's insurance coverage for a tenant. The bill caps the amount of the security deposit and insurance premiums combined at two months' rent that can be collected from a tenant upfront.

Patron: Albo

01/14/04 House: Presented & ordered printed, prefiled 12/30/03 041725204

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Oppose

HB 155 Mobile infrared transmitters; certain prohibited.

Summary as introduced: **Mobile infrared transmitters.** Prohibits operation of motor vehicles equipped with mobile infrared transmitters that are used by emergency vehicles to change traffic light signals so as to afford those emergency vehicles the right of way. The bill does not apply to

emergency vehicles responding to emergency calls. The provisions of this bill closely parallel the law (§ 46.2-1079) prohibiting use of radar detectors.

Patrons: Van Yahres; Senator: Deeds

01/14/04 House: Presented & ordered printed, prefiled 01/05/04 042231532

01/14/04 House: Referred to Committee on Transportation

01/19/04 House: Assigned to Tra. sub-committee: 3

Notes: City Position: Support

HB 156 Higher educational institutions; prohibits admission of illegal aliens.

Summary as introduced:

Higher education; admission of illegal aliens prohibited. Provides that public institutions of higher education may not knowingly accept for enrollment any illegal alien, and directs each institution, upon discovering an enrollment of an illegal alien, to provide for the prompt dismissal of any such person from the institution.

In 1982, the U.S. Supreme Court ruled that undocumented alien children are ensured access to public education in grades K through 12; the Court found that the denial of public school enrollment violated the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. This case was limited to public school enrollment and did not address postsecondary education. (*Plyler v. Doe*, 457 U.S. 202 (1982)).

In September, 2003, a lawsuit was filed in U.S. District Court in Alexandria, Virginia, on behalf of anonymous high school students and recent high school graduates, challenging the denial of college admission to undocumented alien students by the College of William and Mary, George Mason University, James Madison University, Northern Virginia Community College, the University of Virginia, Virginia Commonwealth University, and Virginia Tech. (*Chronicle of Higher Education*, September 12, 2003).

Patrons: Reid and Black

01/14/04 House: Presented & ordered printed, prefiled 01/05/04 043705488

01/14/04 House: Referred to Committee on Education

Notes: City Position: Oppose

HB 174 Recordation tax; additional distribution to localities.

Summary as introduced:

State recordation tax; additional distribution to localities. Provides that 50 percent of the amount of state recordation tax collected in excess of \$80 million shall be distributed, beginning June 30, 2005, and each year thereafter, to the counties and cities based on the percentage of recordation taxes collected in each county and city. The remaining 50 percent would be deposited in the state's general fund. The additional amount above \$80 million distributed to counties and cities would be used for land preservation.

Patron: Lewis

01/14/04 House: Presented & ordered printed, prefiled 01/06/04 042529378

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 1

01/19/04 House: Fiscal impact statement from DPB (HB174)

Notes: City Position: Support

HB 183 Emergency management; local emergency actions.

Summary as introduced: **Emergency management; local emergency actions.** Provides that local emergency actions shall carry the force and effect of law if determined that such force is in the interest of public safety. Violations would be punishable as a Class 1 misdemeanor.

Patron: Oder

01/14/04 House: Presented & ordered printed, prefiled 01/06/04 046493444

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

01/21/04 House: Fiscal impact statement from DPB (HB183)

Notes: City Position: Support

HB 186 Firearms; transfer by persons with a concealed handgun permit.

Summary as introduced: **Crimes and offenses generally; transfer of certain firearms.**

Provides that a holder of a valid permit to carry a concealed weapon need not submit to a criminal background check to buy, rent, trade or receive a firearm from a dealer. The amendments would also allow the holder of a concealed handgun permit to purchase more than one handgun within a 30-day period.

Patrons: Black, Cole and Dudley

01/14/04 House: Presented & ordered printed, prefiled 01/06/04 047514236

01/14/04 House: Referred to Committee for Courts of Justice

01/19/04 House: Referred from Courts of Justice (22-Y 0-N)

01/19/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Oppose

HB 193 Standards of Quality in public schools; apportionment of state and local share.

Summary as introduced:

Standards of Quality; apportionment of state and local share. Directs the General Assembly, in apportioning the state and local share for the costs of meeting the Standards of Quality, beginning July 1, 2004, in any year in which general fund revenue growth is at least three percent greater than population and inflation growth combined for the previous year, to increase the state share by three percent of the total costs, so that, by full implementation of this measure, the local share shall not exceed 65 percent and the state share shall be equal to at least 35 percent of the total costs in each division.

Such increases in the state share shall be granted to those school divisions whose local share is greater than or equal to 65 percent of the total costs in any fiscal biennium.

The per pupil costs of providing such required educational programs for school divisions whose local share as of July 1, 2003, was less than 65 percent of the total costs shall be the same as their final per pupil amount for fiscal year 2004.

Until such time that no school division's local share exceeds 65 percent, no school division shall receive additional state funding for reductions in enrollment; however, funding may be adjusted to (i) ensure that the school division's final per pupil amount remains at the fiscal year 2004 level; and(ii) address inflation and the biennial recalculation of the costs of providing an educational program required to meet the Standards of Quality, as provided in the appropriation act.

Patron: Black

01/14/04 House: Presented & ordered printed, prefiled 01/06/04 047627236

01/14/04 House: Referred to Committee on Education
01/19/04 House: Assigned to Education sub-committee: 1
Notes: City Position: Support

HB 298 Taxes, local; correction of assessment or appeal upon applications for local permits & licenses.

Summary as introduced:

Local taxation; effect of application for correction of assessment or appeal upon applications for local permits and licenses. Prohibits localities from denying permits and licenses to persons who have failed to pay taxes, penalties and interest pending correction of an assessment; appeal by locality of an assessment correction; appeal of a local business tax; or correction or equalization of an assessment of real property. However, localities do not have to issue licenses or permits if the unpaid taxes, penalties and interest would be jeopardized by delay and the issuance of the licenses or permits would prejudice or impede collection efforts. Also, there is no requirement to issue a local vehicle license or a vehicle registration or renewal of registration that is withheld pursuant to § 46.2-752.

Patron: Ware, R.L.

01/14/04 House: Presented & ordered printed, prefiled 01/08/04 041421540

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Oppose

HB 358 Freedom of Information Act; posting of notice of rights and responsibilities by state public bodies.

Summary as introduced:

Freedom of Information Act; posting by certain state public bodies; minutes. Requires all state public bodies created in the executive branch of state government and subject to the Freedom of Information Act (FOIA) to make available certain information to the public upon request and to post such information on the Internet, including: (i). A plain English explanation of the rights of a requester under FOIA, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with FOIA; (ii) contact information for the person designated by the public body to (a) assist a requester in making a request for records or (b) respond to requests for public records; and (iii) any policy the public body has concerning the type of public records it routinely withholds from release as permitted by FOIA. The bill requires the Freedom of Information Advisory Council to assist state public bodies in the development and implementation of this information, upon request. The bill also specifies what information must be included in minutes of open meetings. Finally, the bill requires public bodies to make an audio or audio/visual recording of all closed meetings, which must be kept for two years from the date of the meeting. In this regard, the bill provides that where an action is brought to enforce FOIA, a court may conduct an in camera review of the closed meeting recording to determine what portions, if any, shall be made available to the parties for use as evidence in the proceeding. The court may, for purposes of discovery, redact from the closed meeting recording any information protected by law. The bill further provides that it shall not be construed to supersede the privacy or confidentiality provisions of state or federal law.

Patron: Suit

01/14/04 House: Presented & ordered printed, prefiled 01/12/04 040857104

01/14/04 House: Referred to Committee on General Laws

01/19/04 House: Fiscal impact statement from DPB (HB358)

01/19/04 House: Assigned to General Laws sub-committee: 2

Notes: City Position: Oppose

HB 365 Standards of Quality in public schools; apportionment of state and local share.

Summary as introduced:

Standards of Quality; apportionment of state and local share. Directs the General Assembly, in apportioning the state and local share for the costs of meeting the Standards of Quality, beginning July 1, 2004, in any year in which general fund revenue growth is at least three percent greater than population and inflation growth combined for the previous year, to increase the state share by three percent of the total costs, so that, by full implementation of this measure, the local share shall not exceed 65 percent and the state share shall be equal to at least 35 percent of the total costs.

Such increases in the state share shall be granted to those school divisions whose local share is greater than or equal to 65 percent of the total costs in any fiscal biennium.

The per pupil costs of providing such required educational programs for school divisions whose local share as of July 1, 2003, was less than 65 percent of the total costs shall be the same as their final per pupil amount for fiscal year 2004.

Until such time that no school division's local share exceeds 65 percent, no school division shall receive additional state funding for reductions in enrollment; however, funding may be adjusted to (i) ensure that the school division's final per pupil amount remains at the fiscal year 2004 level; and(ii) address inflation and the biennial recalculation of the costs of providing an educational program required to meet the Standards of Quality, as provided in the appropriation act.

The measure also includes language citing "equal opportunity to a quality education in all areas of the Commonwealth" and stating that "funding formulas are the best and most equitable way for the Commonwealth to distribute the state's share of costs of educational programs."

Patrons: Rust, Albo, Amundson, Black, Callahan, Petersen, Plum and Scott, J.M.; Senators: Howell, Mims, Puller, Saslaw and Ticer

01/14/04 House: Presented & ordered printed, prefiled 01/12/04 047004492

01/14/04 House: Referred to Committee on Education

01/19/04 House: Assigned to Education sub-committee: 1

01/22/04 House: Fiscal impact statement from DPB (HB365)

Notes: City Position: Support

HB 368 Highway construction allocation; distribution of urban and secondary system funds.

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.

Patrons: Rust, Albo, Amundson, Black, Callahan, Dillard, Petersen, Plum and Scott, J.M.;
Senators: Cuccinelli, Howell, Mims, Puller, Saslaw and Ticer

01/14/04 House: Referred to Committee on Transportation

01/22/04 House: Fiscal impact statement from DPB (HB368)

01/22/04 House: Referred from Transportation (22-Y 0-N)

01/22/04 House: Referred to Committee on Appropriations

01/23/04 House: Assigned to App. sub-committee: 4

Notes: City Position: Oppose inclusion of urban system

HB 373 Referenda; local distribution of information.

Summary as introduced:

Distribution of information on local referenda. Allows local governing bodies to disseminate neutral explanations of pending local referenda by any means, not just by publication or printing. The bill deletes the limitation on the length of the explanation to 500 or fewer words. It also prohibits the use of public funds for any advertisement or material advocating the passage or defeat of a referendum.

Patron: Lingamfelter

01/14/04 House: Presented & ordered printed, prefiled 01/12/04 044722380

01/14/04 House: Referred to Committee on Privileges and Elections

Notes: City Position: Support

HB 385 Real estate tax; limitation on tax rate.

Summary as introduced:

Real estate tax; limitation on tax rate. Provides that an annual assessment, biennial assessment or general reassessment of real property may not result in more than a five percent increase in the total real estate tax levies for a county, city or town, with one exception. The bill also provides that a county, city or town may not set its real property tax for any tax year at a rate that would produce more than 105 percent of the previous year's total real property tax levies for such county, city or town, with one exception. The exception would allow a locality to set its property tax rate at a rate not to exceed the rate of population growth plus the rate of inflation in the locality for the immediately preceding year. The average tax increase on individuals would not exceed five percent. However, some taxpayers could be above the average while others could fall below the average. Under current law, (i) the annual growth rate in a locality's total real estate taxes from an annual assessment, biennial assessment or general reassessment is not capped, provided the locality holds a public hearing in regard to its real property tax rate; and (ii) there is no cap on real property tax rates.

Patrons: Lingamfelter and Black

01/14/04 House: Presented & ordered printed, prefiled 01/12/04 042501380

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 1

01/20/04 House: Fiscal impact statement from TAX (HB385)

Notes: City Position: Oppose

HB 395 Public School Authority; grants for school construction.

Summary as introduced:

Virginia Public School Authority; grants for school construction. Authorizes the Virginia Public School Authority to issue bonds to fund grants to local school divisions in the total amount of \$1 billion to pay the costs of school construction, school renovation, and other school infrastructure projects. One-half of the grants (\$500 million) shall be distributed to each school division in an equal amount of \$3,676,471. The remaining one-half shall be distributed to each local school division on a set per pupil amount based on each school division's actual September 30, 2002, fall membership data as a proportion of total actual September 30, 2002, fall membership data for all school divisions.

Patrons: Amundson and Rust; Senator: Mims

01/14/04 House: Referred to Committee on Education

01/19/04 House: Assigned to Education sub-committee: 3

01/21/04 House: Reported from Education (15-Y 7-N)

01/21/04 House: Referred to Committee on Appropriations

01/23/04 House: Assigned to App. sub-committee: 9

Notes: City Position: Support

HB 412 Meals and lodging taxes; local increase by voter referendum.

Summary as introduced:

Meals tax and transient occupancy tax; cities and towns. Restricts the imposition in any city or town of (i) a new (i.e., not in effect on January 1, 2004) meals tax or an increase in the rate as of January 1, 2004, without approval by referendum, and (ii) transient occupancy taxes in excess of two percent, (or five percent when the excess over two percent is spent on tourism promotion under certain conditions), unless the city or town had a higher rate as of January 1, 2004.

Patron: Welch

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 047596552

01/14/04 House: Referred to Committee on Finance

Notes: City Position: Oppose

HB 461 Business, Professional and Occupational License Tax (BPOL); license fees, rates and requirements.

Summary as introduced:

BPOL tax. Makes several changes to the BPOL tax including (i) disallowing any tax to be levied on the first \$100,000 or \$50,000 (depending on the locality's population) of gross receipts; (ii) lowering the rate on each of the four categories by five cents; (iii) allowing only a \$25 fee rather than \$50, for businesses that start up in the last six months of a taxable year; and (iv) allowing all businesses, professions and occupations subject to the BPOL tax to collect the tax from the purchaser of the item or service. These changes are effective for taxable years beginning on or after January 1, 2005.

Patron: Drake

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 047537296

01/14/04 House: Referred to Committee on Finance

Notes: City Position: Oppose

HB 464 Taxes, local; appeal for correction of assessment.

Summary as introduced:

Local taxes; appeals. Permits any taxpayer who is aggrieved by the assessment of any local tax

to appeal such assessment to the Tax Commissioner for a determination of the issue. Either party may appeal the determination of the Tax Commissioner to the circuit court, and the locality must suspend all collection activity on the tax as long as the court has jurisdiction of the matter, unless the locality shows to the satisfaction of the court that: collection would be seriously jeopardized by delay; or that the locality is likely to prevail on the merits of the case because the taxpayer's application is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the collection of the revenue, or to create needless cost to the locality from the litigation; or (iv) otherwise frivolous.

Patron: Drake

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 041369296

01/14/04 House: Referred to Committee on Finance

Notes: City position: Oppose

HB 483 Firearms; control by localities.

Summary as introduced:

Control of firearms by localities. Deletes provisions that allow localities to enforce certain ordinances related to control of firearms adopted prior to 1987, and affirmatively declares that such ordinances are invalid.

Patron: Cole

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 047414272

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Oppose

HB 484 Firearms; permits, reporting of sales.

Summary as introduced:

Reporting of gun sales. Repeals provisions that require a permit to sell or purchase guns in counties having a density of more than 1,000 persons per square mile. Also repealed are provisions that allow counties to require sellers of guns to furnish the names and addresses of gun purchasers to the circuit court clerk.

Patron: Cole

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 043912272

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

01/23/04 House: Reported from M., P. & P. S. (22-Y 0-N)

Notes: City Position: Oppose

HB 507 Protective orders; penalty for violations.

Summary as introduced:

Violation of provisions of protective orders; penalty. Provides that the respondent to a protective order who violates the protective order by furtively entering the home of any protected party while the party is present or by entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. The bill also provides that if the respondent to a protective order commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party, he is guilty of a Class 6 felony. The bill

also provides that, upon conviction of a third or subsequent violation of a protective order punishable as a Class 1 misdemeanor offense, the person is guilty of a Class 6 felony.

Patron: Marrs

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 040194388

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Support

HB 530 Firearms; control by localities.

Summary as introduced:

Control of firearms; applicability to authorities and local governmental agencies. Removes the grandfather clause that allows localities to enforce ordinances governing firearms that were passed before January 1, 1987.

Patron: Hogan

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 040010324

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Oppose

HB 531 Retail sales and use tax; increased for education and transportation.

Summary as introduced: **Sales and use tax; increase for education and transportation.**

Increases the state portion of the sales and use tax from 3.5 percent to 5.5 percent with (i) one-half of the additional revenues generated to be used solely to fund the Standards of Quality for public education, and (ii) the remaining one-half of such revenues to be deposited into the Transportation Trust Fund and used solely for transportation purposes.

Patrons: Stump; Senator: Puckett

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 041377516

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Support

HB 656 Assault and battery; penalty when committed against a family or household member & witnessed by victim's minor child.

Summary as introduced:

Assault and battery against a family or household member; penalty. Punishes assault and battery against a family or household member with the requirement of mandatory counseling if the assault is committed in the presence of, or is witnessed by, the person's or the victim's minor child, minor stepchild or a minor child residing within the household of the person or victim. The bill also removes that requirement that a third such assault must occur within a 10-year period in order to be charged as a felony.

Patron: Bell

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 040920232

01/14/04 House: Referred to Committee for Courts of Justice

01/16/04 House: Fiscal impact statement from VCSC (HB656)

Notes: City Position: Oppose

HB 720 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: Shannon

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 046640502

01/15/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Oppose

HB 730 Business, Professional and Occupational Licensing Tax (BPOL); license fees, rates and requirements.

Summary as introduced:

Local license fees and taxes. Requires localities to impose the flat license fees now authorized by current law on all businesses or no businesses, and 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: Joannou

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 042561352

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 2

Notes: City Position: Oppose

HB 749 Procurement Act, Public; cooperative procurement with U.S. General Services Administration.

Summary as introduced:

Public Procurement Act; cooperative procurement U.S. General Services Administration.

Authorizes public bodies to enter into cooperative procurement agreements with or utilize contracts procured by the U. S. General Services Administration for the purchase of goods and services.

Patron: Marshall, R.G.

01/14/04 House: Referred to Committee on General Laws

01/19/04 House: Assigned to General Laws sub-committee: 2

01/20/04 House: Fiscal impact statement from DPB (HB749)

01/22/04 House: Reported from General Laws (22-Y 0-N)

01/22/04 House: Referred to Committee on Science and Technology

Notes: City Position: Support

HB 819 Zoning ordinances; notice of amendment.

Summary as introduced:

Notice of zoning amendment. Provides that when a proposed amendment of the zoning ordinance involves a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of 25 or fewer parcels of land, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the

owner or owners, their agent or the occupant, of each parcel involved.

Patron: Drake

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046529296

01/14/04 House: Referred to Committee on Counties, Cities and Towns

Notes: City Position: Oppose

HB 820 Condemnation proceedings; rezoning of property.

Summary as introduced:

Rezoning of property that is subject to condemnation proceedings. Provides that once condemnation proceedings have been initiated by a locality, a locality shall not rezone the subject property without the consent of the property owner. If the subject property has been the object of a downzoning, without the consent of the property owner, within the five years previous to the initiation of the condemnation proceeding, the value of the subject property, for purposes of determining just compensation, shall be based on the previous zoning designation.

Patron: Drake

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 044469296

01/14/04 House: Referred to Committee on Counties, Cities and Towns

Notes: City Position: Oppose

HB 830 Housing authorities; authorized to carry out work in areas designated as conservation districts.

Summary as introduced:

Housing authority law; conservation districts. Authorizes any local governing body or its designated agency to carry out work in deteriorated areas designated as conservation districts upon the adoption of an ordinance by the local governing body, which ordinance includes a conservation plan. The bill also authorizes local governing bodies to identify residential dwelling units that are rented to assist local building officials in enforcing any rental property inspection program adopted by the local governing body. The bill contains technical amendments.

Patron: Drake

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 041720296

01/14/04 House: Referred to Committee on General Laws

01/19/04 House: Assigned to General Laws sub-committee: 1

Notes: City Position: Oppose

HB 838 Tuition, in-state; alien student eligibility.

Summary as introduced:

In-state tuition for certain alien students. Provides eligibility for in-state tuition, but not classification as a Virginia resident, upon a showing of clear and convincing evidence that such individual (i) resided in the Commonwealth for five or more years; (ii) received a high school diploma or a general educational development certificate from a public or private high school in the Commonwealth; (iii) registers as an entering student in a public institution of higher education in the Commonwealth not earlier than the 2004-2005 academic year; (iv) submits evidence that he, or in the case of a dependent student at least one parent or person standing in loco parentis, has paid Virginia income taxes for at least one year prior to the date of enrollment; and (v) files an affidavit with the enrolling public institution of higher education in the

Commonwealth stating that the individual will file an application to become a permanent resident within 90 days of the date such individual becomes eligible to do so.

The measure addresses "individuals" rather than a specific class of immigrant or alien students, as the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1623 (a)) provides that an alien "who is not lawfully present in the United States shall not be eligible for ... any post-secondary benefit unless a citizen or national of the United States is eligible for such a benefit...without regard to whether the citizen or national is such a resident."

This measure is similar to legislation enacted in Texas, New York, California, and Utah.

Section 23-7.4 is cross-referenced throughout the Code of Virginia for purposes of defining "domicile," "domiciliary status," "bona fide resident," and other similar terms. The grant of eligibility for in-state tuition provided by this measure does not confer domicile on the alien student; the only other provision referencing students who are granted in-state tuition under this section is § 23-7.4:2, which permits a community college to charge in-state tuition to "[a]ny student from a foreign country who is enrolled in a foreign exchange program approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution."

A special subcommittee of the House Committee on Education and a special subcommittee of the Senate Committee on Education and Health met three times in 2003 to examine the issues raised by measures addressing in-state tuition for undocumented alien students.

Patrons: Ebbin, Brink, Dillard, Eisenberg and Van Landingham; *Senators:* Ticer and Whipple

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 043766300

01/14/04 House: Referred to Committee on Education

Notes: City Position: Support

HB 840 Unemployment compensation; provision for victims of domestic violence or sexual assault.

Summary as introduced:

Unemployment compensation for victims of domestic violence or sexual assault. Modifies the unemployment compensation insurance program to facilitate provision of benefits to claimants who are forced to leave employment due to domestic violence or sexual assault by providing that voluntary departure from work as a direct result of domestic violence or sexual assault constitutes "good cause" for leaving employment. Benefits paid to qualifying claimants shall be charged against the pool rather than against the claimant's employer.

Patron: Baskerville

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 040509228

01/14/04 House: Referred to Committee on Commerce and Labor

Notes: City Position: Support

HB 863 Assault and battery; penalty when committed against a family or household member.

Summary as introduced:

Third offense assault and battery against a family or household member. Provides that upon a conviction for assault and battery against a family or household member, when the person has been previously convicted of two offenses of (i) assault and battery against a family or household member, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding

in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or (v) an offense similar to any of the above under the law of any other jurisdiction, in any combination, all of which occurred within a period of 10 years, and each of which occurred on a different date, the person is guilty of a Class 6 felony. Currently, the Class 6 felony applies only if the prior convictions were for assault and battery against a family or household member.

Patron: Byron

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 040931256

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Support

HB 886 Cigarettes; tax increased, use for Medicaid Program.

Summary as introduced:

Cigarette tax. Increases the state cigarette tax rate from two and one-half cents per pack to 50 cents per pack, and caps local cigarette taxes at the rates in effect on January 1, 2004. The additional revenue generated by the increase in the state tax rate is to be used solely to fund the Virginia Medicaid Program.

Patron: Plum

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 047420464

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 2

Notes: City Position: Support

HB 892 Income tax, state; distribution of individual revenues to localities.

Summary as introduced:

Income tax; distribution of revenues to localities. Requires the transfer of one percent of individual income tax revenues to localities in 2004, and the amount increases one percent each year until it reaches a maximum of five percent for 2008 and thereafter. The revenues are distributed to counties and cities as follows: (i) 50 percent based on the relative share of the total state income tax paid by taxpayers filing returns in each locality, (ii) 40 percent based on where wages are earned, and (iii) 10 percent divided equally among all counties and cities.

Patron: Sickles

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046435510

01/14/04 House: Referred to Committee on Finance

01/15/04 House: Assigned to Finance sub-committee: 2

01/24/04 House: Fiscal impact statement from TAX (HB892)

Notes: City Position: Support

HB 928 Real estate tax; installment payments for seniors.

Summary as introduced:

Real property taxes; installment payments for seniors. Allows local governing bodies to provide for installment payments of real property taxes by taxpayers aged 65 and older, without penalty or interest.

Patrons: Frederick, Lingamfelter, McQuigg and Parrish

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 041812303

01/14/04 House: Referred to Committee on Finance

Notes: City Position: Support

HB 1002 Motor vehicles; registration fees, changes formula for distribution of "four for life" fund.

Summary as introduced:

Distribution of the "four for life" fund. Revises the formula for distribution of the \$4 per year that is charged and collected for registration of motor vehicles by shifting the funds as follows: a reduction of the amount distributed to the Virginia Association of Volunteer Rescue Squads from two and one-half percent to one and one-half percent; an increase of the amount distributed to the State Department of Health to support various programs, training, and other activities from 13 and one-half percent to 30 percent; an increase in the amount distributed to the Rescue Squad Assistance Fund from 31 and three quarters percent to 32 percent; a reduction of the amount available to the State Department of Health for use in emergency medical services from 27 and one-quarter percent to 10 percent; and an increase of the amount returned by the Comptroller to localities from 25 percent to 26 and one-half percent. The State Department of Health's support activities are expanded to include emergency medical services system development initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; local, regional, and statewide performance contracts for emergency medical services to meet certain objectives set out in statutory law; technology and radio communication enhancements; and improved emergency preparedness and response.

Patron: Orrock

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046634116

01/14/04 House: Referred to Committee on Transportation

Notes: City Position: Support

HB 1003 Motor vehicles; registration fees, changes formula for distribution of "four for life" fund.

Summary as introduced:

Distribution of the "four for life" fund. Revises the formula for distribution of the \$4 per year that is charged and collected for registration of motor vehicles by shifting the funds as follows: a reduction of the amount distributed to the Virginia Association of Volunteer Rescue Squads from two and one-half percent to one and one-half percent; an increase of the amount distributed to the State Department of Health to support various programs, training, and other activities from 13 and one-half percent to 30 percent; an increase in the amount distributed to the Rescue Squad Assistance Fund from 31 and three quarters percent to 32 percent; a reduction of the amount available to the State Department of Health for use in emergency medical services from 27 and one-quarter percent to 10 percent; and an increase of the amount returned by the Comptroller to localities from 25 percent to 26 and one-half percent. The State Department of Health's support activities are expanded to include emergency medical services system development initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; local, regional, and statewide performance contracts for emergency medical services to meet certain objectives set out in statutory law; technology and radio communication enhancements; and improved emergency preparedness and response.

Patron: Orrock

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046635116

01/14/04 House: Referred to Committee on Transportation

Notes: City Position: Support

HB 1013 At-Risk Student Academic Achievement Program and Fund; created.

Summary as introduced:

At-Risk Student Academic Achievement Program. Creates the At-Risk Student Academic Achievement Program and Fund, to provide noncompetitive grants to public school divisions to implement programs designed to (i) improve the academic achievement of at-risk public school students on the Standards of Learning assessments; (ii) decrease the rate of dropout among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma. The amount of grants and required local matching funds shall be determined in the appropriation act. Funds received through this Program must be used to supplement, not supplant, any local funds currently provided for at-risk programs within the school division.

Patrons: Dillard, Albo, Amundson, BaCote, Baskerville, Bland, Brink, Bryant, Ebbin, Hamilton, Hull, Jones, D.C., Landes, May, Petersen, Plum, Reese, Rust, Scott, J.M., Van Landingham, Van Yahres, Ward and Watts; *Senators:* Blevins, Howell, Locke, Puller, Saslaw and Ticer

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 043717292

01/14/04 House: Referred to Committee on Education

Notes: City position: Support.

HB 1016 Health insurance; coverage for household members.

Summary as introduced:

Accident and sickness insurance; coverage for household members. Permits an accident and sickness insurance policy to be extended to include coverage for persons (i) in whom the primary insured has an insurable interest, and (ii) who reside in the same household as the insured. Current law permits coverage to be extended only to a spouse or dependent children of the insured.

Patrons: Dillard and Brink; *Senator:* Ticer

01/14/04 House: Referred to Committee on Commerce and Labor

Notes: City Position: Support

HB 1052 Retail sales and use tax; increased for education.

Summary as introduced: **Sales and use tax; increase for education.** Increases the state portion of the sales and use tax from 3.5 percent to four percent and requires that the additional revenue generated thereby be used solely (i) to increase public school teachers' salaries to the 2003 national average, (ii) to fully fund the total cost of all preschool programs for at-risk four-year-olds, and (iii) to fund full-time instructional positions in the areas of art, music, and physical education.

Patron: Hamilton

01/14/04 House: Referred to Committee on Finance

Notes: City Position: Support

HB 1073 Arrest; issuance of warrant, execution.

Summary as introduced:

Arrest outside county or city where charge is to be tried. Expands arrest jurisdiction of a law-enforcement officer to provide that he may execute anywhere in the Commonwealth a capias or warrant issued by a judicial officer from his jurisdiction. Under current law, a law-enforcement officer may execute within his jurisdiction a warrant, capias or summons issued anywhere in the Commonwealth.

Patron: Armstrong

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 044461216

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Support

HB 1078 Taxes, local; appeals.

Summary as introduced:

Local taxes; appeals. Permits any taxpayer who is aggrieved by the assessment of any local tax to appeal such assessment to the Tax Commissioner for a determination of the issue. Either party may appeal the determination of the Tax Commissioner to the circuit court, and the locality must suspend all collection activity on the tax as long as the court has jurisdiction of the matter, unless the locality shows to the satisfaction of the court that: collection would be seriously jeopardized by delay; or that the locality is likely to prevail on the merits of the case because the taxpayer's application is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the collection of the revenue, or to create needless cost to the locality from the litigation; or (iv) otherwise frivolous.

Patron: Parrish

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 042534452

01/14/04 House: Referred to Committee on Finance

01/20/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Oppose

HB 1113 Transportation operators; limitation on recovery in actions for injury or death.

Summary as introduced:

Limitation on recovery from public transportation operators. Limits damages in suits for personal injuries to, or death of, a person caused by a Virginia public transportation operator, that are not otherwise barred by the doctrine of immunity, to \$2 million. The bill defines "public transportation operator" as a political subdivision pursuant to § 15.2-2701 or any other entity, which also (i) provides transportation services to the general public on Virginia's roads; and (ii) is funded in whole or in part by public funds. The bill does not affect any defense of immunity applicable to a public transportation operator.

Patron: Weatherholtz

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 047723548

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Support

HB 1122 Business taxes; appeal of local assessments.

Summary as introduced:

Local business taxes; appeals to court. Provides that when any taxpayer appeals the assessment of a local business tax to court, the assessing official suspend collection activity

while the court retains jurisdiction unless the court determines that collection would be jeopardized by delay.

Patrons: Lingamfelter; Senator: Colgan

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 042553380

01/14/04 House: Referred to Committee on Finance

01/20/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Oppose

HB 1150 Firearms and ammunition; control by localities.

Summary as introduced:

Local government; control of firearms and ammunition. Prohibits a local government from adopting an ordinance governing the storage of firearms or ammunition. Currently, a local government is prohibited from adopting an ordinance governing the purchase, possession, transfer, ownership, carrying, or transporting of firearms or ammunition.

Patron: McDonnell

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Oppose

HB 1188 Retail Sales & Use Tax; exemptions incl. tang. persl. prop. or serv. acquired through Internet.

Summary as introduced:

Sales and use tax; Internet. Exempts from the sales and use tax any tangible personal property or service acquired through the use of the Internet.

Patron: Frederick

01/14/04 House: Referred to Committee on Finance

Notes: City Position: Oppose

HB 1195 Emergency management; local emergency operations plans.

Summary as introduced:

Local emergency operations plans. Requires localities and interjurisdictional emergency management agencies to include written agreements with relevant public or private entities in their emergency operations plan in order to facilitate the effective, safe and efficient coordination of efforts during governor-declared states of emergency. Such agreements shall be made with, but are not limited to, the Virginia Department of Transportation, and owners or operators of electricity, gas, sewer and water facilities serving the locality or interjurisdictional area. The agreements shall include, but are not limited to, the designation of a contact person available on a 24-hour basis, specified times when the public or private entity must have an employee or agent at the local or interjurisdictional emergency operations center, mutual arrangements regarding work to be done in close proximity to high voltage power lines, and other duties and responsibilities of all parties to such agreements. The bill also requires all political subdivisions to annually update their emergency operations plan.

Patrons: Scott, J.M., Callahan and Hull; Senators: Ticer and Whipple

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Support

HB 1198 Public water supplies; emergency plans for safe handling during any extended

power outage.

Summary as introduced:

Emergency plans for the safe handling of community public water supplies during any extended power outage. Authorizes the Board of Health to promulgate requirements and criteria for the development and maintenance of an emergency management plan for each community public water supply for the provision of pure water during any extended power outage.

Patron: Jones, D.C.

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046700100

01/14/04 House: Referred to Committee on Health, Welfare and Institutions

01/23/04 House: Fiscal impact statement from DPB (HB1198)

Notes: City Position: Support

HB 1201 Outsourcing; regulations for procurement of nonprofessional services.

Summary as introduced:

Division of Purchases and Supply; regulations related to outsourcing. Requires the Division of Purchases and Supply to adopt regulations that establish the conditions under which a public body shall use, as a basis for the procurement of nonprofessional services, the commercial activities list developed by the Commonwealth Competition Council established in § 2.2-2621.

Patrons: Cline, Cosgrove, Lingamfelter, Saxman, Sickles, Weatherholtz and Wright

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046972496

01/14/04 House: Referred to Committee on General Laws

Notes: City Position: Oppose

HB 1211 Community development authorities; issuance of revenue bonds.

Summary as introduced:

Community development authorities. Provides that the revenue bonds issued by a development authority shall not be deemed to constitute a debt, liability, or obligation of a political subdivision and shall not impact upon the debt capacity of any other political subdivision.

Patron: Hall

01/14/04 House: Referred to Committee on Counties, Cities and Towns

Notes: City Position: Oppose

HB 1232 Protective orders; penalty for violations.

Summary as introduced:

Enticement to violate protective order. Provides that any person, including any party protected under the protective order, who entices another to violate a protective order, is guilty of a Class 1 misdemeanor.

Patron: Griffith

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 047790308

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Oppose

HB 1233 Domestic violence, sexual assault and stalking; training of personnel to handle.

Summary as introduced:

Domestic violence; sexual assault. Requires the Department of Criminal Justice Services to establish training standards and a model policy for law-enforcement personnel in handling sexual assault and stalking cases and to establish training standards and model policy and protocols for local and regional sexual assault response teams. Provides that temporary (no more than 90 days) child support may be one of the conditions imposed on a respondent in a family abuse protective order. The bill requires that as of January 1, 2005, the treatment or education program that a court may refer the defendant to in a family abuse criminal case must be one approved by the Department of Criminal Justice Services. The bill requires the state police and local law-enforcement agencies to have policies that provide guidance to officers on domestic violence incidents involving law-enforcement officers and repeat offenders. The Department of Social Services is required to establish minimum training requirements on family abuse and domestic violence for child protective services workers and supervisors.

The bill also provides that a respondent to a protective order who violates the protective order by furtively entering the home of any protected party while the party is present or entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. In addition, if the respondent to a protective order commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party, he is guilty of a Class 6 felony. Upon conviction of a third or subsequent offense of violation of a protective order the person is guilty of a Class 6 felony.

Patron: Griffith

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 040921104

01/14/04 House: Referred to Committee for Courts of Justice

01/22/04 House: Fiscal impact statement from VCSC (HB1233)

Notes: City Position: Support

HB 1234 Domestic Violence Victim Fund; created.

Summary as introduced:

Virginia Domestic Violence Victim Fund. Creates the Virginia Domestic Violence Victim Fund. The Fund is to be administered by the Department of Criminal Justice Services, and the resources used to support the prosecution of domestic violence cases and victim services. The Fund shall be supported by dedication of a portion of court fees and a set-aside of \$10 from the \$20 tax on marriage licenses.

Patron: Griffith

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 040871104

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Oppose (bill would move funds from an agency that is administering them well to a new agency)

HB 1270 Retail Sales and Use Tax; increase for education, creates At-Risk Student Academic Achievement Fund.

Summary as introduced:

Sales and use tax; increase for education. Increases the state portion of the sales and use tax from 3.5 percent to four percent for public school education, with one-half of the additional revenues generated thereby deposited into the At-Risk Student Academic Achievement Fund

created by the bill, and the remaining one-half distributed to localities based on a set per pupil amount, based on the latest actual adjusted average daily membership, and used solely for public school capital projects. The At-Risk Student Academic Achievement Fund is to be used to provide noncompetitive grants to public school divisions to implement programs designed to (i) improve the academic achievement of at-risk public school students on the Standards of Learning assessments; (ii) decrease the rate of dropout among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma.

Patron: Dillard

01/16/04 House: Presented & ordered printed 042565292

01/16/04 House: Referred to Committee on Finance

01/20/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Support

HB 1286 Retail sales and use tax; increased for education.

Summary as introduced:

Sales and use tax; increase for education. Increases the state portion of the sales and use tax from 3.5 percent to 4.5 percent with (i) one-half of the additional revenues generated to be distributed among all counties and cities based upon point of sale and used solely for public school purposes and (ii) the remaining one-half of such revenues to be appropriated by the General Assembly for higher education.

Patron: Shuler

01/19/04 House: Presented & ordered printed 042523508

01/19/04 House: Referred to Committee on Finance

01/20/04 House: Assigned to Finance sub-committee: 1

Notes: City Position: Support

SB 20 School Construction Grant Act of 2004; created.

Summary as introduced:

Virginia Public School Authority; School Construction Grant Act of 2004. Authorizes the Virginia Public School Authority to issue bonds to fund grants to local school divisions in the total amount of \$1 billion to pay the costs of school construction, school renovation, and other school infrastructure projects. The schedule for the issuance of the bonds and the payment of the debt service on them shall be as provided in the general appropriation act, with the payment of debt service to be made from general funds. One-half of the grants (\$500 million) shall be distributed to each school division in an equal amount of \$3,676,471. The remaining one-half shall be distributed to each local school division on a set per pupil amount based on each school division's actual September 30, 2003, fall membership data as a proportion of total actual September 30, 2003, fall membership data for all school divisions. In implementing this bill, the Virginia Public School Authority shall not incur more than a total of \$250 million in debt in any fiscal year.

Patron: Puller

01/14/04 Senate: Presented & ordered printed, prefiled 12/09/03 042914796

01/14/04 Senate: Referred to Committee on Education and Health

Notes: City Position: Support

SB 48 Firearms; criminal history records check required to obtain from firearms show

vendor.

Summary as introduced:

Transfer of firearms; criminal records check. Adds a definition of "firearms show vendor" and requires that a criminal history record information check be performed on the prospective transferee before the vendor may transfer firearms at a gun show. Under current law, only licensed dealers must obtain such a check.

Patron: Marsh

01/14/04 Senate: Presented & ordered printed, prefiled 12/19/03 040771756

01/14/04 Senate: Referred to Committee for Courts of Justice

01/21/04 Senate: Reported from Courts of Justice w/amd (8-Y 7-N)

01/21/04 Senate: Rereferred to Finance

Notes: City Position: Support

SB 140 Real estate tax; limitation on tax rate.

Summary as introduced:

Real estate tax; limitation on tax rate. Provides that an annual assessment, biennial assessment or general reassessment of real property may not result in more than a five percent increase in the total real estate tax levies for a county, city or town, with one exception. The bill also provides that a county, city or town may not set its real property tax for any tax year at a rate that would produce more than 105 percent of the previous year's total real property tax levies for such county, city or town, with one exception. The exception would allow a locality to multiply its current rate by the sum of (i) the rate of the population growth, plus (ii) the rate of inflation in the locality for the immediately preceding year. The average tax increase on individuals would not exceed five percent. However, some taxpayers could be above the average while others could fall below the average. Under current law, (a) the annual growth rate in a locality's total real estate taxes from an annual assessment, biennial assessment or general reassessment is not capped, provided the locality holds a public hearing in regard to its real property tax rate; and (b) there is no cap on real property tax rates.

Patrons: Cuccinelli and Bolling

01/14/04 Senate: Presented & ordered printed, prefiled 01/12/04 042922720

01/14/04 Senate: Referred to Committee on Finance

Notes: City Position: Oppose

SB 236 Domestic violence, sexual assault and stalking; training of personnel to handle.

Summary as introduced:

Domestic violence; sexual assault. Requires the Department of Criminal Justice Services to establish training standards and a model policy for law-enforcement personnel in handling sexual assault and stalking cases and to establish training standards and model policy and protocols for local and regional sexual assault response teams. Provides that temporary (no more than 90 days) child support may be one of the conditions imposed on a respondent in a family abuse protective order. The bill requires that as of January 1, 2005, the treatment or education program that a court may refer the defendant to in a family abuse criminal case must be one approved by the Department of Criminal Justice Services. The bill requires the state police and local law-enforcement agencies to have policies that provide guidance to officers on domestic violence incidents involving law-enforcement officers and repeat offenders. The Department of

Social Services is required to establish minimum training requirements on family abuse and domestic violence for child protective services workers and supervisors.

The bill also provides that a respondent to a protective order who violates the protective order by furtively entering the home of any protected party while the party is present or entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. In addition, if the respondent to a protective order commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party, he is guilty of a Class 6 felony. Upon conviction of a third or subsequent offense of violation of a protective order the person is guilty of a Class 6 felony.

Patron: Norment

01/14/04 Senate: Presented & ordered printed, prefiled 01/13/04 040922104

01/14/04 Senate: Referred to Committee for Courts of Justice

01/22/04 Senate: Fiscal impact statement from VCSC (SB236)

Notes: City Position: Support

SB 237 Domestic Violence Victim Fund; created.

Summary as introduced:

Virginia Domestic Violence Victim Fund. Creates the Virginia Domestic Violence Victim Fund. The Fund is to be administered by the Department of Criminal Justice Services, and the resources used to support the prosecution of domestic violence cases and victim services. The Fund shall be supported by dedication of a portion of court fees and a set-aside of \$10 from the \$20 tax on marriage licenses.

Patron: Norment

01/14/04 Senate: Presented & ordered printed, prefiled 01/13/04 040870104

01/14/04 Senate: Referred to Committee for Courts of Justice

Notes: City Position: Oppose (bill would move funds from an agency that is administering them well to a new agency)

SB 302 Procurement Act, Public; includes cooperative procurement.

Summary as introduced:

Public Procurement Act; cooperative procurement. Provides that a public body may purchase from a U.S. General Services Administration contract or a contract accepted by any other agency of the federal government for the procurement of goods and nonprofessional services. If the contract includes terms and conditions that are inconsistent with the Virginia Public Procurement Act, a public body may accept such terms and conditions only upon a written determination by the public body that acceptance of the contract is in the public interest.

Patron: O'Brien

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 047772260

01/14/04 Senate: Referred to Committee on General Laws

Notes: City Position: Support

SB 321 Gangs; definition, penalty upon conviction of criminal activity, forfeiture of property, etc.

Summary as introduced:

Crimes by gangs; definitions; recruitment; three strikes; forfeiture; obstruction of justice; penalties. Includes within the definition of "criminal street gang" the current definition of

"pattern of criminal gang activity." The bill eliminates the definition of "act of violence" and expands the scope of the act by amending the definition of "predicate criminal act" to include all felonies and additional misdemeanors such as assault and battery by mob, hazing of a student on school property, reckless handling of firearms, allowing access to firearms by children, oral threats to school employees, stalking, petit larceny, distribution of certain drugs to minors, willful discharge of a firearm in a public place, brandishing a firearm in a public place, carrying a loaded firearm, carrying certain concealed weapons, possession of certain weapons on school property, participation in a riot, unlawful assembly, and disorderly conduct. The bill creates a Class 1 misdemeanor to recruit a person into a criminal street gang and also creates a Class 6 felony for forcing a person to become a gang member through the use or threat of force against that person or another person. The same crime against a juvenile is a Class 5 felony. The bill makes a third or subsequent conviction of sections prohibiting criminal street gang participation and recruitment a Class 3 felony (five to 20 years) with a mandatory minimum term of imprisonment of 10 years. The bill allows for the forfeiture of any property, real or personal, used in connection with street gang activity. Finally, the bill increases from a Class 1 misdemeanor to a Class 6 felony the act of obstructing a judge, magistrate, justice, juror, witness, or any law-enforcement officer lawfully engaged in the discharge of his duty and the act of obstructing, by threats or force, such person lawfully engaged in the discharge of his duty. The bill also makes it a Class 5 felony to obstruct, by threats of bodily harm or force, such person lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate the prohibition against participating in a criminal street gang or the prohibition against recruiting juveniles to participate in a criminal street gang.

Patron: Stolle

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 040191104

01/14/04 Senate: Referred to Committee for Courts of Justice

01/16/04 Senate: Fiscal impact statement from VCSC (SB321)

Notes: City Position: Support

SB 359 Referenda; local distribution of information.

Summary as introduced:

Distribution of information on local referenda. Allows local governing bodies to disseminate neutral explanations of pending local referenda by any means, not just by publication or printing. The bill deletes the limitation on the length of the explanation to 500 or fewer words.

Patrons: Colgan and Puller; *Delegates:* Marshall, R.G., McQuigg and Parrish

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 047647716

01/14/04 Senate: Referred to Committee on Privileges and Elections

Notes: City Position: Support

SB 361 Real estate tax; allows No. Va. increase amount of income for elderly or disabled prior reduced imp.

Summary as introduced:

Real property tax; exemptions for elderly and handicapped. Permits Northern Virginia localities to increase the income and financial worth limitations used to determine whether certain elderly or handicapped persons are eligible for exemption from or deferral of real

property tax.

Patrons: Colgan, O'Brien and Puller; *Delegates:* Lingamfelter, Marshall, R.G., McQuigg and Parrish

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 044933716

01/14/04 Senate: Referred to Committee on Finance

Notes: City Position: Support

SB 479 Standards of Quality

Summary as introduced:

Standards of Quality. Reorganizes the Standards of Quality and makes substantive amendments that would (i) increase from one half-time to one full-time principal in elementary schools with fewer than 300 students; (ii) provide one full-time assistant principal for each 400 students in each school, regardless of grade level; (iii) require five elementary resource positions per 1,000 students in kindergarten through grade five for art, music, and physical education; (iv) lower the pupil-teacher ratio from 25:1 to 21:1 in middle and high schools, to ensure the provision of scheduled teacher planning time; (v) reduce the required speech pathologist caseload from 68 to 60 students; (vi) require one full-time reading specialist for each 1,000 students in average daily membership; (vii) require two technology support positions per 1,000 students in kindergarten through grade 12 divisionwide; and (viii) modify the current funding mechanism for remediation. A second enactment clause provides that the amendments requiring additional state funding (such as increasing principals or lowering pupil-teacher ratios) will not become effective unless funded in the 2004 appropriation act. The Board of Education proposed and approved these changes on June 25, 2003. Because the Virginia Constitution grants the General Assembly "ultimate authority" over educational policy and provides that the Standards are to be "prescribed from time to time by the Board of Education" but are subject to revision "only by the General Assembly," legislation is necessary to enact the Board's proposals.

Patron: Potts

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 043757112

01/14/04 Senate: Referred to Committee on Education and Health

Notes: City Position: Support

SB 525 Procurement Act, Public; raises limit on design-build construction management contracts.

Summary as introduced:

Virginia Public Procurement Act; design-build construction management contracts. Raises the limit on design-build construction contracts from \$500,000 to \$1 million. The bill also removes the requirement that all design build contracts be reviewed and approved by the Design-Build/Construction Management Review Board.

Patron: Hanger

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 046949732

01/14/04 Senate: Referred to Committee on General Laws

01/23/04 Senate: Fiscal impact statement from DPB (SB525)

Notes: City Position: Support

SB 550 Family abuse; determination of predominate physical aggressor.

Summary as introduced:

Family abuse. Changes the term primary physical aggressor to predominate physical aggressor in section that requires arrest in most family abuse cases when the law-enforcement officer has probable cause to believe that family assault or violation of a protective order occurred. The officer is required to arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the primary (now predominant) physical aggressor (unless there are special circumstances that would dictate a course of action other than an arrest). The bill sets standards for determining who is the predominate physical aggressor. This bill is a recommendation of the Family Violence Subcommittee of the Virginia State Crime Commission.

Patrons: Howell, Norment and Stolle; *Delegates:* Albo, Kilgore, McDonnell and Moran

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 040775134

01/14/04 Senate: Referred to Committee for Courts of Justice

Notes: City Position: Support

SB 551 Protective orders; distribution of information by court service units.

Summary as introduced:

Court service units; duties; distribution of protective order information. Requires each court service unit to provide to each person who is issued a protective order by the juvenile court a written statement of the conditions imposed by the order and procedures and time limits applicable to further proceedings on protective orders.

Patrons: Howell, Norment and Stolle; *Delegates:* Albo, Kilgore, McDonnell and Moran

01/14/04 Senate: Referred to Committee for Courts of Justice

Notes: City Position: Support

SB 562 Freedom of Information Act; exempts certain information furnished to local internal auditors.

Summary as introduced:

Freedom of Information Act; record exemption; investigations of local auditors. Expands the current record exemption for investigative notes, correspondence and information furnished in confidence to certain state auditors to the same records of designated internal auditors of any school board or local governing body, including committees established pursuant to § 15.2-825, responsible for auditing or examining the financial transactions of any officer, department or program of such body.

Patrons: Lambert, Marsh, Stosch and Watkins; *Delegates:* Baskerville, Hall, Jones, D.C., Miles and O'Bannon

01/14/04 Senate: Presented & ordered printed 047746312

01/14/04 Senate: Referred to Committee on General Laws

Notes: City Position: Support

SJ 69 Washington Metropolitan Area Transit Authority; Congress to undertake new commitment for funding.

Summary as introduced:

Memorializing Congress on financial needs of WMATA. Memorializes Congress to make a renewed commitment to adequately fund the Washington Metropolitan Area Transit Authority.

Patron: Whipple

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 047781844

01/14/04 Senate: Referred to Committee on Rules

Notes: City Position: Support

SJ 84 Constitutional amendment; exemption of certain motor vehicles from state & local taxation (first reference).

Summary as introduced:

Constitutional amendment (first resolution); property exempt from taxation. Amends the Constitution of Virginia to exempt privately owned motor vehicles used for nonbusiness purposes from state and local taxation. If this resolution is enacted by either the 2004 or 2005 General Assembly a second resolution must be introduced and enacted by the 2006 General Assembly in order for this amendment to be on the November 2006 general election ballot.

Patron: Hanger

01/14/04 Senate: Presented & ordered printed 041806732

01/14/04 Senate: Referred to Committee on Privileges and Elections

Notes: City Position: Oppose

SJ 85 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 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. Such fair market value assessment shall then be subject to the two percent limitation in subsequent tax years until such time as the property is again sold, transferred, improved, or rezoned at the owner's request.

Patron: Hanger

01/14/04 Senate: Presented & ordered printed 042969732

01/14/04 Senate: Referred to Committee on Privileges and Elections

Notes: City Position: Oppose

Northern Virginia Transportation Issues

- **General Principles:**

- All or a major portion of the additional revenues should go to the TTF where it is allocated by modes
- Additional or new revenues must be available to assist with Northern Virginia's capital project needs
- Northern Virginia Transportation Authority (NVTa) has endorsed a list of priority highway projects that require nearly \$380 million in additional funding.
- There are significant unfunded Metro needs that need immediate additional funding to relieve further impact on local general funds. Virginia's **UNFUNDED** share of Metro Matters \$1.5 billion Six Year needs is around \$398 million to keep the system maintained. \$18 million is needed in FY05 and \$32 million is needed in FY06.
- \$88 million in additional funding is needed for VRE which has growing capital needs to keep up with increasing ridership.
- New revenues must provide additional funding for highway and transit capital projects.
- Additional funds should be provided for transit so that the statutory requirements can be met.
- The primary and secondary highway fund allocation formulas should be changed to reflect needs; possible changes include giving additional weight to factors such as population and VMT.
- Additional revenues should be returned to No Va to a greater share than current formula; otherwise, No Va continues to be shortchanged.

Attachment 3
Current Status of City Package Bills
January 23, 2004

HB 19 Traffic signals; use of photo-monitoring 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: McQuigg

01/14/04 House: Presented & ordered printed, prefiled 11/19/03 044406412

01/14/04 House: Referred to Committee on Transportation

01/20/04 House: Referred from Transportation (21-Y 0-N)

01/20/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Support

HB 113 Electric generating facilities; emission reduction requirements.

Summary as introduced:

Severe nonattainment areas. Directs any electric generating facility in a severe nonattainment area to meet the following emission reduction requirements no later than January 1, 2009: (i) reduce aggregate sulfur dioxide emissions by at least 75 percent from levels allowed under full implementation of the federal Clean Air Act Phase II sulfur dioxide requirements, and (ii) reduce aggregate nitrogen oxide emissions by at least 75 percent from the facility's 1997 levels. Also, this bill prohibits any electric generating facility from operating after January 1, 2009, unless it has complied with such emission reduction requirements or entered into a consent decree with the State Air Pollution Control Board, agreeing to cease operations by 2014.

Patron: Van Landingham

01/14/04 House: Presented & ordered printed, prefiled 12/22/03 047791528

01/14/04 House: Referred to Committee on Agr., Chesapeake & Natural Res.

01/20/04 House: Fiscal impact statement from DEQ (HB113)

Notes: City Position: Support

HB 156 Higher educational institutions; prohibits admission of illegal aliens.

Summary as introduced:

Higher education; admission of illegal aliens prohibited. Provides that public institutions of higher education may not knowingly accept for enrollment any illegal alien, and directs each institution, upon discovering an enrollment of an illegal alien, to provide for the prompt dismissal of any such person from the institution.

In 1982, the U.S. Supreme Court ruled that undocumented alien children are ensured access to public education in grades K through 12; the Court found that the denial of public school enrollment violated the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. This case was limited to public school enrollment and did not address postsecondary education. (*Plyler v. Doe*, 457 U.S. 202 (1982)).

In September, 2003, a lawsuit was filed in U.S. District Court in Alexandria, Virginia, on

behalf of anonymous high school students and recent high school graduates, challenging the denial of college admission to undocumented alien students by the College of William and Mary, George Mason University, James Madison University, Northern Virginia Community College, the University of Virginia, Virginia Commonwealth University, and Virginia Tech. (Chronicle of Higher Education, September 12, 2003).

Patrons: Reid and Black

01/14/04 House: Presented & ordered printed, prefiled 01/05/04 043705488

01/14/04 House: Referred to Committee on Education

Notes: City Position: Oppose

HB 187 Mortgage loans; regulations by Housing Development Authority.

Summary as introduced:

Virginia Housing Development Authority; regulations. Requires the Housing Development Authority to develop regulations providing that single-family mortgage loans may be made to more than one person only if the persons to whom the loan is to be made are related by blood, marriage or adoption.

Patrons: Black and Dudley

01/14/04 House: Presented & ordered printed, prefiled 01/06/04 047650236

01/14/04 House: Referred to Committee on General Laws

01/19/04 House: Assigned to General Laws sub-committee: 1

01/23/04 House: Fiscal impact statement from DPB (HB187)

Notes: City Position: Oppose

HB 370 Traffic signals; abolishes sunset on use of photo-monitoring systems.

Summary as introduced:

Photo-red. Repeals the July 1, 2005, "sunset" on "photo-red" traffic light signal enforcement programs in Virginia.

Patrons: Rust, Albo, Amundson, Callahan, Dillard, Petersen, Plum and Scott, J.M.; Senators: Howell, Mims, Puller, Saslaw and Ticer

01/14/04 House: Presented & ordered printed, prefiled 01/12/04 047771260

01/14/04 House: Referred to Committee on Transportation

01/20/04 House: Referred from Transportation (21-Y 0-N)

01/20/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Support

HB 539 Pedestrians; provisions when crossing a highway.

Summary as introduced:

Pedestrians. Requires motorists to stop for pedestrians crossing highways under certain circumstances.

Patrons: May and Ebbin

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 047442400

01/14/04 House: Referred to Committee on Transportation

01/19/04 House: Assigned to Transportation. sub-committee: 3

Notes: City Position: Support

HB 569 Gangs; penalty for recruitment of juveniles for criminal street activity.

Summary as introduced:

Recruitment of juveniles for criminal street gang; penalty. Creates a Class 1 misdemeanor to recruit a person into a criminal street gang. The bill also creates a Class 6 felony for forcing a person to become a gang member through the use or threat of force against that person or another person. The same crime against a juvenile is a Class 5 felony.

Patron: Albo

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 040132104

01/14/04 House: Referred to Committee for Courts of Justice

01/16/04 House: Fiscal impact statement from VCSC (HB569)

Notes: City Position: Support

HB 572 Gangs; expands list of predicate criminal acts that define a pattern of criminal activity.

Summary as introduced:

Crimes by gangs; definitions; penalties. Includes within the definition of "criminal street gang" the current definition of "pattern of criminal gang activity." The bill eliminates the definition of "act of violence" and expands the scope of the act by amending the definition of "predicate criminal act" to include all felonies and additional misdemeanors such as assault and battery by mob, hazing of a student on school property, reckless handling of firearms, allowing access to firearms by children, oral threats to school employees, stalking, petit larceny, distribution of certain drugs to minors, willful discharge of a firearm in a public place, brandishing a firearm in a public place, carrying a loaded firearm, carrying certain concealed weapons, possession of certain weapons on school property, participation in a riot, unlawful assembly, and disorderly conduct.

Patron: Albo

01/14/04 House: Presented & ordered printed, prefiled 01/13/04 040190104

01/14/04 House: Referred to Committee for Courts of Justice

01/16/04 House: Fiscal impact statement from VCSC (HB572)

Notes: City Position: Support

HB 825 Housing Development Authority; financing of certain mixed-income & mixed-use housing developments.

Summary as introduced:

Virginia Housing Development Authority; financing of certain mixed-income and mixed-use housing developments. Authorizes the Virginia Housing Development Authority (Authority) to finance mixed-income and mixed-use housing developments in revitalization areas designated by local governments if (i) the surrounding area is predominantly of lower income or (ii) the Authority's ability to provide the low and moderate income housing will be enhanced by having a portion of the units occupied by persons and families who are not of low or moderate income. The bill limits the percentage of persons or families who are not of low and moderate

income in any economically mixed project to 80 percent and provides that nonhousing buildings may not be financed by the Authority unless a certification is provided by the housing sponsor that a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions.

Patrons: Drake, Oder and Suit; Senator: Whipple

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 042771108

01/14/04 House: Referred to Committee on General Laws

01/19/04 House: Assigned to General Laws sub-committee: 1

Notes: City Position: Support

HB 827 Home ownership; grants by localities for assistance to school board employees.

Summary as introduced:

Home-ownership assistance. Allows that a locality may by ordinance provide for the use of funds, other than state funds, for grants and small, low-interest loans to assist employees of the locality or the school board to purchase residences in such locality. The residences shall be the primary residence of any employee receiving such grants or loans.

Patrons: Drake, Marrs, Oder, Stump and Suit; Senator: Whipple

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 046712296

01/14/04 House: Referred to Committee on Counties, Cities and Towns

01/16/04 House: Assigned to C. C. T. sub-committee: 2

Notes: City Position: Support

HB 828 Building Code; inspection and enforcement authority, inspection of elevators.

Summary as introduced:

Uniform Statewide Building Code; enforcement; inspection of elevators. Clarifies the inspection authority of local building officials for existing commercial and residential buildings or structures, including the authority of a local governing body to adopt and enforce an inspection program for residential dwelling units that are rented to tenants pursuant to the Landlord and Tenant Act (§ 55-217 et seq.) or the Virginia Residential Landlord Tenant Act (§ 55-248.2 et seq.). The bill provides that inspection and enforcement shall only be in response to a complaint received, or the visual observation by the local building official or other department designated by the local governing body of the exterior of the building or structure. The real property owner has the right to refuse access to the local building official or other department designated by the local governing body subject to the authority granted in law for the building official or designated department to obtain an inspection warrant. The local governing body shall have no right to require real property owners to register real property with the local governing body or to impose any fee relative to such a registration program. The bill also removes the ability of an agent of a building official to obtain an inspection warrant. The bill contains technical amendments.

Patron: Drake

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 041719296

01/14/04 House: Referred to Committee on General Laws

01/19/04 House: Assigned to General Laws sub-committee: 1

Notes: City Position: Oppose

HB 838 Tuition, in-state; alien student eligibility.

Summary as introduced:

In-state tuition for certain alien students. Provides eligibility for in-state tuition, but not classification as a Virginia resident, upon a showing of clear and convincing evidence that such individual (i) resided in the Commonwealth for five or more years; (ii) received a high school diploma or a general educational development certificate from a public or private high school in the Commonwealth; (iii) registers as an entering student in a public institution of higher education in the Commonwealth not earlier than the 2004-2005 academic year; (iv) submits evidence that he, or in the case of a dependent student at least one parent or person standing in loco parentis, has paid Virginia income taxes for at least one year prior to the date of enrollment; and (v) files an affidavit with the enrolling public institution of higher education in the Commonwealth stating that the individual will file an application to become a permanent resident within 90 days of the date such individual becomes eligible to do so.

The measure addresses "individuals" rather than a specific class of immigrant or alien students, as the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1623 (a)) provides that an alien "who is not lawfully present in the United States shall not be eligible for ... any post-secondary benefit unless a citizen or national of the United States is eligible for such a benefit...without regard to whether the citizen or national is such a resident."

This measure is similar to legislation enacted in Texas, New York, California, and Utah.

Section 23-7.4 is cross-referenced throughout the Code of Virginia for purposes of defining "domicile," "domiciliary status," "bona fide resident," and other similar terms. The grant of eligibility for in-state tuition provided by this measure does not confer domicile on the alien student; the only other provision referencing students who are granted in-state tuition under this section is § 23-7.4:2, which permits a community college to charge in-state tuition to "[a]ny student from a foreign country who is enrolled in a foreign exchange program approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution."

A special subcommittee of the House Committee on Education and a special subcommittee of the Senate Committee on Education and Health met three times in 2003 to examine the issues raised by measures addressing in-state tuition for undocumented alien students.

Patrons: Ebbin, Brink, Dillard, Eisenberg and Van Landingham; *Senators:* Ticer and Whipple

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 043766300

01/14/04 House: Referred to Committee on Education

Notes: City Position: Support

HB 874 Affordable housing; applicable in Alexandria City.

Summary as introduced:

Affordable housing. Adds the City of Alexandria to the list of localities with authority to provide for an affordable housing dwelling unit program under § 15.2-2304.

Patrons: Van Landingham, Brink and Ebbin

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 047738528

01/14/04 House: Referred to Committee on Counties, Cities and Towns

01/16/04 House: Assigned to C. C. T. sub-committee: 2

01/23/04 House: Reported from Counties, Cities and Towns (21-Y 0-N)

Notes: City Position: Support

HB 1012 Gangs; presumption against bail, presentence report due to criminal participation.

Summary as introduced: **Criminal procedure; admission to bail.** Creates a rebuttable presumption against bail for any person who is held in custody when such person is charged with participating in a criminal street gang or the soliciting of a juvenile to participate in a criminal street gang. The bill adds the participation in and the recruitment for a criminal street gang to the list of felonies for which there must be a presentence report unless waived by the court and the defendant and the attorney for the Commonwealth. The bill specifies information regarding gang membership that may be included in the presentence report.

Patron: Rust

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 040187104

01/14/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Support

HB 1104 Constitutional amendment; restoration of civil rights for felons (submitting to qualified voters).

Summary as introduced:

Constitutional amendment (voter referendum); restoration of civil rights for certain felons.

Provides for a referendum at the November 2004 election on approval of an amendment to revise provisions concerning restoration of civil rights. The amendment 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. The present Constitution provides for restoration of rights by the Governor. The measure retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons convicted of nonviolent felonies.

Patron: Moran

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 044718424

01/14/04 House: Referred to Committee on Privileges and Elections

01/21/04 House: Fiscal impact statement from DPB (HB1104)

Notes: City Position: Support

HB 1149 Gangs; expands list of predicate criminal acts that define a pattern of criminal activity.

Summary as introduced:

Predicate crimes by criminal street gangs; penalty. Expands the list of predicate criminal acts that define a pattern of criminal activity and a criminal street gang to include certain drug sale,

distribution, transportation, possession and manufacturing crimes, and brandishing a firearm and recruitment of a juvenile into a street gang.

Patron: McDonnell

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 045128404

01/14/04 House: Referred to Committee for Courts of Justice

01/16/04 House: Fiscal impact statement from VCSC (HB1149)

Notes: City Position: Support

HB 1329 Electric generating facilities; to meet emissions reductions in severe nonattainment areas.

Summary as introduced:

Severe nonattainment areas. Directs any electric generating facility in a severe nonattainment area to meet the following emission reduction requirements no later than January 1, 2007: (i) reduce aggregate sulfur dioxide emissions by at least 75 percent from levels allowed under full implementation of the federal Clean Air Act Phase II sulfur dioxide requirements, and (ii) reduce aggregate nitrogen oxide emissions by at least 75 percent from the facility's 1997 levels. Also, this bill prohibits any electric generating facility from operating after January 1, 2007. The bill exempts any electric generating plant that has entered into a settlement agreement or consent decree with the Environmental Protection Agency prior to January 1, 2004, for the reduction of certain emissions.

Patrons: Reese and Marshall, R.G.

01/21/04 House: Presented & ordered printed 040436396

01/21/04 House: Referred to Committee on Agr., Chesapeake & Natural Res

Notes: City Position: Support

HJ 204 Constitutional amendment ; restoration of civil rights for nonviolent felons (second reference).

Summary as introduced:

Constitutional amendment (second resolution); 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. The present Constitution provides for restoration of rights by the Governor. The amendment retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons convicted of nonviolent felonies.

Patron: Moran

01/14/04 House: Presented & ordered printed, prefiled 01/14/04 044717424

01/14/04 House: Referred to Committee on Privileges and Elections

Notes: City Position: Support

SB 92 Photo-monitoring systems to enforce traffic light signals.

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: Devolites

01/14/04 Senate: Presented & ordered printed, prefiled 01/06/04 043938726

01/14/04 Senate: Referred to Committee on Transportation

01/22/04 Senate: Reported from Transportation w/amds (13-Y 2-N)

Notes: City Position: Support

SB 101 Pedestrians; provisions when crossing a highway.

Summary as introduced:

Pedestrians. Requires motorists to stop for pedestrians crossing highways under certain circumstances.

Patron: Devolites

01/14/04 Senate: Presented & ordered printed, prefiled 01/06/04 046677726

01/14/04 Senate: Referred to Committee on Transportation

Notes: City Position: Support

SB 176 Traffic signals; operation of photo-monitoring systems.

Summary as introduced:

Use of photo-monitoring systems to enforce traffic light signals. Provides that no locality may begin operation of a traffic light photo-monitoring system after June 30, 2005. The bill eliminates the expiration of the test program (July 1, 2005) and effectively allows those localities with it already in place at that time to continue it.

Patron: Stolle

01/14/04 Senate: Presented & ordered printed, prefiled 01/13/04 040009820

01/14/04 Senate: Referred to Committee on Transportation

01/22/04 Senate: Reported from Transportation w/amds (14-Y 1-N)

Notes: City Position: Support

SB 290 Living wage provisions; no local governing body may establish without approval of Gen. Assembly.

Summary as introduced:

Local "living wage" provisions. Provides that no local governing body may establish "living wage" provisions without approval of the General Assembly. Any "living wage" ordinance previously adopted by a local governing body that did not receive the approval of the General Assembly shall be considered void.

Patrons: O'Brien and Bolling

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 047619784

01/14/04 Senate: Referred to Committee on Rules

Notes: City Position: Oppose

SB 428 Minimum wage; public bodies prohibited from requiring payment that exceeds minimum standards.

Summary as introduced:

Minimum wage. Provides that no public body may require the payment of a minimum wage that exceeds the federal minimum wage to the employees of an employer, or his subcontractor, contracting to provide goods or services to the public body.

Patrons: Wagner; Delegate: Nixon

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 047731832

01/14/04 Senate: Referred to Committee on Commerce and Labor

Notes: City Position: Oppose

SB 451 Pedestrians; provisions when crossing a highway.

Summary as introduced:

Pedestrians. Requires motorists to stop for pedestrians crossing highways under certain circumstances.

Patron: Whipple

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 046444844

01/14/04 Senate: Referred to Committee on Transportation

01/22/04 Senate: Reported from Transportation w/amds (15-Y 0-N)

Notes: City Position: Support

SB 458 Motor fuels tax; additional imposition 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 situated in the Northern Virginia Transportation District.

Patron: Whipple

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 042960844

01/14/04 Senate: Referred to Committee on Finance

Notes: City Position: Support

SB 472 Charter; City of Alexandria.

Summary as introduced:

Charter; City of Alexandria. Makes several changes including (i) authority to provide grants or loans to employees to purchase or rent residences within the City, (ii) provisions allowing any person who suffers personal injury or property damage caused by the violation of a local human rights ordinance to bring a court action against the alleged violator for damages, (iii) authority to add a cost-of-living increase for council salaries, (iv) grandfathering of city ordinances that may not have complied with general law, so long as the action was in compliance with the then applicable local law, and (v) clarifying that certain local procedures preempt provisions of general law.

Patrons: Ticer, Puller and Saslaw; Delegates: Amundson, Ebbin, Scott, J.M. and Van

Landingham

01/14/04 Senate: Pres. & ord. printed w/emg. clause pref.01/14/04 046919828

01/14/04 Senate: Referred to Committee on Local Government

Notes: City Position: Support

SB 473 Hate crimes; includes sexual orientation in list that a person may seek injunctive relief.

Summary as introduced:

Hate crimes. Adds sexual orientation to the categories of acts for which a person may seek injunctive relief or file an action for damages. The bill also adds sexual orientation to the categories of victims whose intentional selection for a "hate crime" involving assault or trespass amplifies the Class 1 misdemeanor to a Class 6 felony penalty. The bill also adds sexual orientation to the definition of "hate crime" for purposes of a central repository of information regarding hate crimes maintained by the State Police.

Patrons: Ticer, Howell and Puller; *Delegates:* Amundson, Dillard, Plum and Scott, J.M.

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 047539828

01/14/04 Senate: Referred to Committee for Courts of Justice

01/18/04 Senate: Fiscal impact statement from VCSC (SB473)

01/21/04 Senate: Passed by indefinitely in C. J. (8-Y 7-N)

Notes: City Position: Support

SB 492 Gangs; presumption against bail, presentence report due to criminal participation.

Summary as introduced:

Criminal procedure; admission to bail. Creates a rebuttable presumption against bail for any person who is held in custody when such person is charged with participating in a criminal street gang or the soliciting of a juvenile to participate in a criminal street gang. The bill adds the participation in and the recruitment for a criminal street gang to the list of felonies for which there must be a presentence report unless waived by the court and the defendant and the attorney for the Commonwealth. The bill specifies information regarding gang membership that may be included in the presentence report.

Patron: Mims

01/14/04 Senate: Presented & ordered printed, prefiled 01/14/04 040188104

01/14/04 Senate: Referred to Committee for Courts of Justice

Notes: City Position: Support

Attachment 4 - Comparison of Major Tax Reform Proposals, 2004 Session

ISSUE	Warner (SB 467, HB 1081)	Chichester (SB 635)	Louderback (HB 108)	Hanger (SB 530)
Income Tax	6.25% rate on income over \$100,000	6.25% rate on income over \$100,000; 6.5% on income over \$150,000, both	Lowers tax rates for low income; raises for upper income	Lowers tax rates for low income; raises for upper income
Sales Tax	Increases to 5.5% on July 1, 2004	Increases to 5.5% on July 1, 2004	Lowers rate to 4%, but extends tax to services	Increases to 5% on July 1, 2004
Sales Tax on Food	Decreases to 2.5% on July 1, 2004	Decreases to 2%	Eliminates July 1, 2004	\$40/person tax credit in lieu of eliminating sales tax on food
62 Deduction	Eliminates for those not already eligible	Means test for all	Eliminates	Means test for all
65 Deduction	Means test for those born after 1939	Means test for all	Eliminates	Means test for all
State Tobacco Tax	Increases state tax to 25¢/pack	Increases state tax to 30¢/pack	Does not address	Increases state tax to 30¢/pack;
Local Tobacco Tax	Limits local tax to 50¢/pack	Limits local tax to 55¢/pack	Does not address	Eliminates local tax, but all state revenues go to localities
Estate Tax	Eliminates for most	Eliminates for all	Eliminates	Eliminates
Low Income	Lowers income taxes	Lowers income taxes	Lowers tax rates for low income; raises for upper income	Lowers tax rates for low income; raises for upper income
Fuel Tax	Does not address	Increases by 3¢	Does not address	Increases by 5¢
Sales Tax on Fuel	Does not address	Applies the 5.5% tax	Does not address	Does not address
Car Tax	Eliminates by 2008	Eliminates by 2005	Does not address	Eliminates on all personal use vehicles of any value
Car Titling Tax	Does not address	Increases to 5.5% (from 3%)	Does not address	Does not address
Car Registration	Does not address	Increases by \$10	Does not address	Does not address
BPOL	Does not address	Does not address	Repeals	Does not address
Approximate annual revenues raised (05)	\$0.52 B	\$1.66 B	0	Unknown
Resulting revenue increase to City	Unknown, but certain funds (e.g., HB 599 and public schools) are in jeopardy if new revenues are not approved	\$1.5M/yr in new SOQ funds	Unknown	Unknown, but likely minimal

Attachment 5

Comparison of the Warner and Chichester Funding Plans (Source: Fiscal Analytics)

Chichester Proposal

Warner Proposal

General Fund Changes (\$ mil)	See Notes	FY 2005				FY 2005			
		FY 2005	FY 06	FY 07	FY 08	FY 2005	FY 06	FY 07	FY 08
One cent sales tax increase w/o food (eff. 7/1/04)		\$727	\$833	\$870	\$909	\$727	\$833	\$870	\$909
Change in upper income tax brackets (eff. 1/1/05)	1	\$141	\$285	\$308	\$332	\$97	\$196	\$216	\$236
Cigarette tax increases (eff. 7/1/04)	2	\$224	\$224	\$221	\$221	\$147	\$146	\$144	\$144
Means test age deduction (eff. 1/1/05)	3	\$24	\$36	\$104	\$112	\$9	\$35	\$53	\$58
Eliminate corporate tax loopholes (eff. 1/1/04)	4	\$35	\$30	\$45	\$47	\$35	\$30	\$45	\$47
Reduce sale tax on food	5	(\$200)	(\$225)	(\$236)	(\$248)	(\$101)	(\$165)	(\$174)	(\$179)
Eliminate/reduce estate tax (eff. 1/1/04)	6	(\$113)	(\$113)	(\$113)	(\$113)	(\$51)	(\$63)	(\$53)	(\$50)
Increase personal exemptions to \$1000 (eff. 1/1/05)	7	(\$29)	(\$56)	(\$56)	(\$55)	(\$29)	(\$56)	(\$56)	(\$55)
Reduce low-income taxes and other bracket changes	8	(\$60)	(\$115)	(\$115)	(\$115)	(\$148)	(\$282)	(\$282)	(\$280)
Eliminate one-time sales tax acceleration	9	\$0	(\$181)	\$0	\$0	(\$181)	\$0	\$0	\$0
Transfer 1/3 insurance premiums to TTF	10	(\$112)	(\$119)	(\$129)	(\$139)	(\$130)	(\$142)	(\$149)	(\$157)
Bring 0.5% TTF sales tax to GF	11	\$451	\$475	\$499	\$524	\$0	\$0	\$0	\$0
30c recordation tax increase to "Rainy Day Fund"		\$60	\$60	\$0	\$0	\$0	\$0	\$0	\$0
Car Tax Changes		(\$176)	(\$428)	(\$449)	(\$471)	(\$26)	(\$131)	(\$249)	(\$379)
Subtotal GF		\$972	\$765	\$948	\$1,004	\$348	\$400	\$363	\$293
									1391.714
									1284
									800
Transportation Changes (\$ mil)									
		FY 2005	FY 06	FY 07	FY 08	FY 2005	FY 06	FY 07	FY 08
Motor fuels excise tax (incl. diesel) to 20.5c		\$175	\$181	\$186	\$192				
MV Sales Tax net of trade-in to 5.5%		\$397	\$418	\$439	\$461				
Apply 5.5% sales tax to motor fuels		\$398	\$419	\$440	\$462				
1/3 insurance premiums from GF		\$112	\$119	\$126	\$134	\$130	\$142	\$149	\$157
\$10 vehicle registration fee increase		\$61	\$64	\$68	\$71				
30c/100\$ value recordation tax increase to TTF		\$0	\$0	\$60	\$60				
GF for FY 2003 FRAN cost debt service		\$0	\$0	\$0	\$0	\$37	\$37	\$37	\$37
Send 0.5 cent TTF sales tax to GF		(\$451)	(\$475)	(\$499)	(\$524)				
Subtotal TTF		\$691	\$725	\$819	\$855	\$168	\$179	\$187	\$195
									1479.5
									1424.143

GF Change Notes:

- 1) Warner plan adds a new top bracket of 6.25% over \$100,000 in taxable income
Chichester plan has two new brackets, 6.25% over \$100,000, plus another bracket of 6.50% over \$150,000 in taxable income.
- 2) Warner increases cigarette taxes to 25 cents, allows localities to tax cigarettes up to 50 cents
Chichester increases to 35 cents, allows localities up to 55 cents phased in over 4 years
- 3) Warner grandfatheres existing taxpayers receiving age subtraction as of 1/1/05 and means tests those turning 65 after date.
Subtraction reduced dollar for dollar from \$50k to \$74k for single and \$75k to \$123k for married filers. No subtraction for filers turning 62 after 1/1/05.
Chichester means tests using a dollar-for-dollar reduction starting at \$40,000 for single filers and \$64,000 for joint filers
Effective TY 2011, age 62 benefit no longer available for new eligibles, \$12,000 benefit rises to SS retirement age (67)
- 4) Eliminates loopholes for intangible holding co.'s, "nowhere" income, and pass thru entities
- 5) Warner reduces the sales tax on food by 1% starting 7/1/04 and another 0.5% on 7/1/05.
Chichester cuts food tax by 2%, including current TTF portion going to GF beginning July 1, 2004.
- 6) Warner eliminates tax for estates valued under \$10 mil., plus closely held farms and businesses
Chichester plan eliminates entire estate tax
- 7) Warner - includes several actions that particularly help low income taxpayers effective 1/1/05
 - a) For singles, increases standard deduction to \$4,000 and filing threshold to \$7,000, for married \$8,000 and \$14,000
 - b) increases current 3% tax bracket to \$7,000 and 5% bracket to \$20,000
 - c) Conform to federal law on military exemptions for house sales and overnight travel expensesChichester's low income taxpayer relief eff. 1/1/05 includes:
 - a) increases in the standard deduction to \$3,500 for single and \$7,000 for joint filers
 - b) allows a dollar-for-dollar phase-out of the low income tax credit rather than eliminating all benefits at income \$1 over poverty level.
- 8) Warner plan eliminates accelerated sales tax for large dealers, June 2005; Chichester eliminates June 2006
- 9) Warner transfers 1/3 of all insurance premiums to the TTF
Chichester transfers 1/3 of insurance premiums tax related to auto insurance to TTF.
- 10) Chichester increases recordation taxes by 30 cents/\$100 value with revenue in the 1st two years to the "rainy day" fund, and thereafter to the TTF.
- 11) Warner increases the existing 70% car tax reimbursement by 7.5% each year beginning TY 2005, with 100% in TY 2008
Chichester plan creates a "pot" of funds in TY 05 to reimburse localities for eliminating the \$20,000 and under car tax
The "pot" consists of 1.5 cents on the sales tax, plus a static \$230 million appropriation (total pot equal to 100% of existing car tax base in TY 05).
Localities are reimbursed from the "pot" based on their TY 2004 reimbursement percentage.
Local "pot" reimbursements grow with the sales tax growth applied to the TY 04 percentage.

Transportation Change Notes:

Questions:

Does food tax reduction begin July 1, 2004?
How is car tax pot calculated?

City of Alexandria, Virginia

MEMORANDUM

DATE: DECEMBER 29, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHILIP SUNDERLAND, CITY MANAGER *PS*

FROM: BERNARD CATON, LEGISLATIVE DIRECTOR *BC*

SUBJECT: GOVERNOR'S PROPOSED BIENNIAL BUDGET

On December 17, Governor Warner released his proposed budget for the upcoming biennium. It is based on the assumption that the Governor's tax reform will be adopted by the General Assembly, thus providing the appropriations needed to fund the Governor's proposals. As you may have seen from some of the media coverage, the House Appropriations Committee Chairman, Vince Callahan, has already announced that his committee would report a budget that does not assume the tax reform revenues, since they may not materialize.

For the most part, the Governor's budget continues existing programs at their current levels, with increases in appropriations that are needed due to unavoidable growth (e.g., more public school students, more people using the Medicaid program). Most of the \$2.4 billion in increased spending is proposed for 5 programs: K-12 education, \$762 million; health care (primarily Medicaid and other programs for the poor and disabled), \$942 million; colleges and universities, \$144 million; public safety, \$179 million; and transportation, \$391 million.

Many of the proposals for increased funding are linked to the Governor's tax reform package. Increased HB599 funding, for instance, which assists localities with their law enforcement costs and is supposed to increase regularly in proportion to growth in the state general fund, is contingent on passage of the Governor's tax reform package.

Although we do not yet have sufficient information to project specific funding for City programs, it appears that the Governor's budget would continue state funding to existing programs at their existing levels or with slight increases. These include the following:

- For Alexandria Schools, increased funding for the cost of competing (salary supplements for the more expensive Northern Virginia school divisions), as well as other increases for state-supported education programs. We expect to get specific estimates of these increases early next month. This item is contingent on passage of the Governor's tax reform package.

- Additional funding for English as a Second Language teachers in the Alexandria City Public Schools. This item is contingent on passage of the Governor's tax reform package.
- HB 599 funding can be expected to increase, from approximately \$5.9 million in FY 04 to \$6.3 million in FY 05, and \$6.7 million in FY 06. These increases are contingent on passage of the Governor's tax reform package.
- The Governor is proposing to increase the state general fund appropriation for Healthy Families by \$459,980 each year. These funds can be used to match additional federal funds.
- Funding is included to provide a 3 percent salary increase to state-supported local employees (e.g., constitutional officers and their employees, Alexandria Health Department employees) on December 1, 2005. This item is contingent on passage of the Governor's tax reform package.

Council should also be aware that the City contribution to VRS for Alexandria teachers, which will be set in the state budget, is expected to increase substantially, with the cost in the millions. We are awaiting specific information from the State.

We will share additional information on the State budget as we receive it. Budget information will also be included in each of the Legislative Updates that are prepared during Session.

cc: Michele Evans, Assistant City Manager
 Mark Jinks, Assistant City Manager
 Bruce Johnson, Director, OMB
 Kendel Taylor, Budget Analyst, OMB
 Department Heads
 Rebecca Perry, Superintendent, ACPS
 Jay Johnson, Assistant Superintendent, ACPS

Revised By House Appropriations Committee

Where Do We Go From Here?

- Remove the Governor's tax proposal from the revenue stream
 - Eliminate the new trust funds, restore the revenues to the general fund
 - Remove the additional \$156.6 million in Car Tax relief
 - Continue sales tax acceleration - \$181.0 million
 - Eliminate funding for Dept. of Taxation for implementation - \$5.3 million
- Need to identify \$1.0 billion in spending reductions
- Minimize impact to agencies that have borne the brunt of previous reductions. Allow the Committee to address pressing issues:
 - Higher Education enrollment and tuition
 - Accumulated backlog in capital maintenance
 - Begin addressing SOQ revisions
 - Funding for Olmstead

How Do We Balance the Budget?

- Remove pay raise - \$105.0 million
- Remove general funds for Transportation
 - \$347.0 million (insurance premium tax and FRAN debt service)
- No additional reductions in SOQ funding
 - Cannot restore local/federal deduct – cost of \$418.2 million
 - Remove new funding for: NoVa cost of competing, ESL, and At-Risk 4 year olds - \$31.3 million in savings
- ? – Capture FY 2004 local share of Lottery profits and use for NCLB local assistance in 2005 and 2006
 - Savings of approximately \$10.0 million
- Refocus Higher Education funding to address enrollment and tuition issues - \$27.0 million in savings

How Do We Balance the Budget?

- Leverage capital maintenance reserve funds
 - ★ – Create about \$200.0 million through short-term (10 years) bonds versus \$66.0 million cash
 - Generate savings of \$28.0 million
- Level fund 599 and ABC profits - \$41.6 million in savings
- Fund state employees VRS at actuarial rate (• ?)
 - \$58.3 million in savings for state agencies
 - Leave teacher rate at pooled rate level – may have a disclosure issue with the CAFR (working with Auditor on solution)
- Eliminate Medicaid provider rate increase - \$18.8 million in savings
- Continue the transfer of the increased “\$4-for-Life” funding
 - 2002 General Assembly increased the fee by \$2, with the additional revenue (\$21.2 million) flowing to the general fund during the 2002-04 biennium

How Do We Balance the Budget?

- Eliminate about \$9.0 million in new Commerce and Trade Funding
 - Additional GOF, tourism/industrial development marketing funds
- Remove \$2.8 million in new Natural Resources funding
 - DGIF operating support, DEQ water planning, study of non-native oyster, Elizabeth River clean-up
- Reduce funding for SVP facility – \$2.0 million
 - Adjust funding and staffing to reflect expected commitments
- Remove new discretionary funding in Public Safety - \$8.0 million
 - Fire Programs SAFER, State Police additional retention pay, Commonwealth Attorney's Council
 - Trim DOC funding increase
 - Establish a user fee for STARS radio system
 - Fee on car rental – every 1% generates about \$8.0 million, increase price of liquor at ABC stores – every 1% generates approximately \$3.5 million

How Do We Balance the Budget?

- Adoption of these adjustments, still leaves approximately \$260.0 million in required spending reductions. Other reductions that could be made include:

- Eliminate funding for the Water Quality Improvement Fund - \$7.7 million
- Eliminate the remaining new funding for Higher Education - \$90.0 million
- Eliminate the SOQ remediation funding - \$41.0 million
- Freeze FAMIS enrollment increase - \$14.8 million
- Contain Medicaid growth: reduced inflation rates for hospitals and nursing homes, eliminate nursing home re-basing (\$50.0 million)
- Eliminate the Olmstead funding - \$27.0 million
- ?, - NGF transfers: VDOT, DMV, higher education interest earnings

18
1-27-04
(2-3-04)

City of Alexandria

MEMORANDUM

DATE: FEBRUARY 2, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHILIP SUNDERLAND, CITY MANAGER *PS*

FROM: BERNARD CATON, LEGISLATIVE DIRECTOR *BC*

SUBJECT: ADDENDUM TO RECOMMENDATIONS AND STATUS REPORT (NO. 1) ON
LEGISLATION INTRODUCED AT THE 2004 GENERAL ASSEMBLY SESSION

ISSUE: Addendum to Recommendations and status report (No. 1) on legislation introduced at the 2004 General Assembly Session.

RECOMMENDATION: That City Council approve the legislative positions included in Attachment 1 as recommended by City Council's Legislative Subcommittee (Mayor Euille and Councilwoman Woodson).

DISCUSSION: Council has already received a docket memorandum (dated January 26) recommending positions on legislation before the 2004 General Assembly Session. Since that time, Council's Legislative Committee has reviewed additional bills and recommends additional positions, as detailed in Attachment 1.

City Package. Since the January 26 memorandum, the following actions have been taken on bills from the City's legislative package:

- HB 874, which seeks to grant the City the authority, through the special use permit process, to increase a project's density in exchange for the provision of affordable housing, has passed the House, and awaits action by the Senate Committee on Local Government.
- HB 113, which would have required certain power plants in ozone non-attainment areas, such as the Mirant plant, to lower their sulfur dioxide, nitrogen dioxide, and particulate emissions, was carried over to the 2005 Session, and could receive additional attention prior to the end of the year.

- The City Charter bill (SB 472) was amended in Committee to eliminate the provision which would have allowed the City to authorize a private cause of action for violations of the City's Human Rights Ordinance. The bill was then approved by the Committee and awaits action in the Senate.
- Legislation to extend red light camera authority statewide (only 8 cities and counties now have it) was defeated in the House Committee on Militia, Police and Public Safety. Other legislation that would eliminate the sunset clause for localities already authorized to use red light cameras (this authorization is scheduled to expire July 1, 2005) is still awaiting action by that same committee.
- SB 451, SB 101, and HB 539, all seeking to require drivers to stop (rather than simply yield) for any pedestrian using a crosswalk at a non-signalized intersection, have received favorable action in Senate and House committees and await floor action. Concerns about weakened language in the Senate bills (noted in the January 26 docket memorandum) reportedly will be addressed in the House, so that all the bills will require drivers to stop, rather than yield, at intersections.

Residential Rental Inspections. HB 828, as introduced, would force the City to discontinue its long-standing residential rental inspection program. The bill is opposed as written by many local governments from around the state. On January 29, a meeting was held with representatives of local government and the rental industry to see if the legislation might be amended so that it could be supported by both these groups. Although draft language has not yet been prepared, it appears possible that the City may be able to agree to legislation that would allow the program to continue with some modifications. Among the likely changes are:

- any annual registration requirements would be replaced with a one-time notification process to the locality, with additional notification to the locality about any subsequent change, such as change in ownership.
- Annual registration fees (the City currently charges \$3/unit) would not be allowed, but inspection fees would. The City likely would be able to generate enough revenue from inspection fees to make up for the loss in registration fees (approximately \$90,000 year).
- "Good actors" would be inspected less frequently, and "bad actors" more frequently. Any unit could be inspected at any time upon the receipt of a specific complaint.
- Criteria, not yet developed, would be used to determine which areas of a locality (or even the locality as a whole) could be designated for regular rental inspections. This will, of course, be key to the City's position on this measure, since the City would like to be able to continue a citywide program.

Staff will continue to update Council about this legislation in future reports.

STAFF:

Bernard Caton, Legislative Director
Michele Evans, Assistant City Manager

ATTACHMENT:

Attachment 1 - Recommended Positions on Bills of Importance to the City, January 30, 2004

Attachment 1

Recommended Positions on Bill of Importance to the City
January 30, 2004

HB 304 Methadone clinics; licensure conditions for certain.

Summary as introduced:

Licensure conditions for certain methadone clinics; emergency. Prohibits the granting of an initial license to a facility for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance, methadone, or other such controlled substances, if such facility is to be located within a one-half mile of a public or private K-12 school. In addition, the Commissioner is required to notify the local governing body of the jurisdiction in which such facility is to be located within 15 days of receiving notice of a proposal or an application to obtain initial licensure for methadone clinics. The local governing body may submit comments on the proposal or application that may include its compliance with this provision and applicable local ordinances. Existing clinics are grandfathered.

Patrons: Fralin and Ware, O.; Senator: Bell

01/14/04 House: Referred to Committee on Health, Welfare and Institutions

01/29/04 House: Incorporated by H.W.I. (HB745-Ware, O.) (21-Y 0-N)

Notes: City Position: Oppose

HB 381 Medical or health services to minors; notification to parents.

Summary as introduced:

Notification of parents of certain health services to minors. Requires, notwithstanding other law to the contrary and unless prohibited by federal law or regulation, any state or local government agency employee who provides services to a minor, for which such minor is deemed an adult for purposes of consent, to notify, within two business days of delivery of such services, a custodial parent, legal guardian or other person standing in loco parentis of any service and any reason, condition or diagnosis requiring such service when the service relates to sexually transmitted diseases, the provision of emergency contraception, pregnancy, illegal drug use, and the contemplation of suicide. The employee is required to provide notice in person or by telephone, or if such attempts to notify are unsuccessful, by certified mail to the authorized person; however, notification will not be required when the employee has knowledge that such notification may result in future physical or mental abuse.

Patron: Lingamfelter

01/14/04 House: Referred to Committee on Health, Welfare and Institutions

Notes: City Position: Oppose

HB 407 Highways, roads and streets; standards for repairs and utilities.

Summary as introduced:

Local highways, roads and streets; repairs and utilities. Requires all repairs and utility work done on any local highway, road or street that is not part of the state highway system to comply with established Virginia Department of Transportation standards.

Patron: Welch

01/14/04 House: Referred to Committee on Counties, Cities and Towns

01/23/04 House: Referred from Counties, Cities & Towns (21-Y 0-N)

01/23/04 House: Referred to Committee on Transportation

Notes: City Position: Oppose

HB 408 Highway repairs; use of steel plates.

Summary as introduced:

Use of steel plates in connection with highway repairs. Requires anyone using steel plates in connection with a repair to the roadway of any highway to apply a traction-improving substance to the plate and mark the plate so as to be clearly visible to oncoming traffic. If this cannot be done, the location must be conspicuously posted in accordance with the Manual of Uniform Traffic Control Devices and any applicable supplements thereto.

Patron: Welch

01/14/04 House: Referred to Committee on Transportation

Notes: City Position: Support

HB 745 Methadone clinics; notice requirements.

Summary as introduced:

Notice of proposals or initial applications for methadone clinics required. Requires the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to notify the local governing body of the jurisdiction in which a methadone clinic is proposed within 15 days of receiving notice of a proposal or an application to obtain initial licensure to operate such facility. Local governing bodies may submit to the Commissioner comments on the proposals or applications within 30 days from the date of the notice, including the suitability of the proposed location of the clinic and its conformance with the locality's comprehensive plan and its compliance with relevant local ordinances.

Patrons: Ware, O.; Senator: Edwards

01/29/04 House: Reported from H. W. I. w/substitute (17-Y 4-N)

Notes: City Position: Oppose

HB 873 Alert and warning system; localities to establish in event of emergency or disaster.

Summary as introduced:

Municipalities; alert and warning system. Requires all localities with a population greater than 50,000 to establish an alert and warning system by July 1, 2005 that is capable of disseminating adequate and timely warning to the public in the event of an emergency or threatened disaster.

Patrons: Van Landingham, Brink and Ebbin; Senator: Ticer

01/14/04 House: Referred to Committee on Militia, Police and Public Safety

Notes: City Position: Support

HB 1317 Protective orders; when hearing held following issuance.

Summary as introduced:

Hearing on preliminary protective orders. Requires that the hearing following issuance of a preliminary protective order be held within five days of the issuance of the preliminary order rather than the current 15 days.

Patron: Louderback

01/20/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Oppose

HB 1421 Tort claims; notice to cities and towns.

Summary as introduced:

Tort claims; notice to cities and towns. Repeals the specific requirements for notifying cities and towns of tort claims against them.

Patrons: Stump and Armstrong

01/23/04 House: Referred to Committee for Courts of Justice

Notes: City Position: Oppose

HB 1472 Clean Smokestack Act; created to reduce emissions, report.

Summary as introduced:

Air emissions reductions. Establishes a schedule by which investor-owned public utilities that own or operate coal-fired generating units are required to reduce by specific amounts their emissions of oxides of nitrogen, sulfur dioxide and mercury. The utilities are to determine what technologies will be used to achieve the emission limits established by the bill. Any permit issued by the Air Pollution Control Board for a coal-fired generating unit, which is subject to this new law, will have to provide for testing, monitoring, record keeping and reporting to assure compliance with the reduction requirements. The bill also authorizes the Governor to enter into agreements with the utilities to transfer to the state any emissions allowance that the utilities may acquire under federal law. The Department of Environmental Quality (DEQ) and the State Corporation Commission (SCC) are to report annually to the status of the emissions reduction and cost recovery efforts. In addition, DEQ must conduct an ongoing analysis of the issues related to the development and implementation of standards and plans to control carbon dioxide from coal-fired generating units. DEQ must also evaluate available control technologies and perform a cost-benefit analysis of alternative strategies to reduce emissions of CO₂. Finally, the bill authorizes the SCC to adjust the rate caps established by the Electric Utility Restructuring Act to account for the environmental compliance costs incurred by the utilities.

Patrons: Reid, Brink, Eisenberg, Hamilton, Janis, Jones, S.C., Landes, Morgan, O'Bannon, Plum, Pollard, Reese, Sickles and Van Landingham; Senator: Ticer

01/23/04 House: Referred to Committee on Agr., Chesapeake & Natural Res.

Notes: City Position: Support

SB 134 Methadone clinics; notice requirements.

Summary as introduced:

Notice of proposals or initial applications for methadone clinics required. Requires the

Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to notify the local governing body of the jurisdiction in which a methadone clinic is proposed within 15 days of receiving notice of a proposal or an application to obtain initial licensure to operate such facility. Local governing bodies may submit to the Commissioner comments on the proposals or applications within 30 days from the date of the notice, including the suitability of the proposed location of the clinic and its conformance with the locality's comprehensive plan and its compliance with relevant local ordinances.

Patrons: Edwards; *Delegates:* Fralin and Ware, O.

01/14/04 Senate: Referred to Committee on Education and Health

01/29/04 Senate: Reported from Ed. & H. with substitute (14-Y 0-N)

Notes: City position: Oppose

SB 284 Line of Duty Act; funding of continued health insurance and death payment benefits thereunder.

Summary as introduced:

Funding of Line of Duty Act. Transfers costs incurred under the Line of Duty Act, which provides a lump-sum payment and health insurance to the surviving families of a public safety employee who is killed in the line of duty, from the State to local governments.

Patron: Wampler

01/14/04 Senate: Referred to Committee on Finance

Notes: City Position: Oppose

SB 312 Methadone clinics; licensure conditions for certain.

Summary as introduced:

Licensure conditions for certain methadone clinics. Prohibits the granting of an initial license to a facility for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance, methadone, or other such controlled substances, if such facility is to be located within one-half mile of a public or private K-12 school. In addition, the Commissioner is required to notify the local governing body of the jurisdiction in which such facility is to be located within 15 days of receiving notice of a proposal or an application to obtain initial licensure for methadone clinics. The local governing body may submit comments on the proposal or application that may include its compliance with this provision and applicable local ordinances. Existing clinics are grandfathered.

Patron: Bell

01/14/04 Senate: Referred to Committee on Education and Health

01/29/04 Senate: Incorporated by E. H. (SB607-Wampler) (12-Y 2-N)

Notes: City Position: Oppose

SB 607 Methadone clinics; licensure conditions for certain.

Summary as introduced:

Licensure conditions for certain methadone clinics; emergency. Prohibits the granting of an initial license to a facility for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance, methadone, or other such controlled

substances, if such facility is to be located within a one-half mile of a public or private day care center or K-12 school. In addition, the Commissioner is required to notify the local governing body of and the community services board serving the jurisdiction in which such facility is to be located within 15 days of receiving notice of a proposal or an application to obtain initial licensure for methadone clinics. The local governing body and the community services board may submit comments on the proposal or application. The local governing body must notify the Commissioner within 30 days of the date of the notice concerning the compliance of the applicant with the location condition and applicable local ordinances. The Commissioner is also required to hold a public hearing on any application for a new methadone clinic and to publish a summary of the application in a newspaper of general circulation in the locality for at least seven days prior to the date on which the public hearing is to be held. No license can be issued by the Commissioner until the conditions of this provision for notice, receipt of comments, public hearing, and compliance with the location restriction are satisfied. Existing clinics are grandfathered.

Patrons: Wampler and Bell; *Delegates:* Johnson and Kilgore

01/21/04 Senate: Referred to Committee on Education and Health

01/29/04 Senate: Reported from Ed. & H. with substitute (12-Y 2-N)

Notes: City Position: Oppose

SB 655 Business license tax; phase-out in all localities.

Summary as introduced:

Business license tax phase-out. Requires localities that impose the business license tax to eliminate it in 25 percent increments annually beginning no later than July 1, 2005. It also repeals the business license tax provisions effective July 1, 2008.

Patron: Norment

01/23/04 Senate: Referred to Committee on Finance

Notes: City Position: Oppose

SB 688 Public-Private Education Facilities & Infrastructure Act.

Summary as introduced:

Public-Private Education Facilities and Infrastructure Act of 2002. Amends the Public-Private Education Facilities and Infrastructure Act of 2002 by requiring the comprehensive agreement to include provisions for performance and payment bonds as provided in the Virginia Public Procurement Act and a bid bond in the amount of five percent of the total cost of the project. In addition, the bill requires local governing bodies proceeding under the Act to have the comprehensive agreement approved by the Design/Build Construction Management Review Board and analyzed by the Auditor of Public Accounts prior to final approval. The bill also requires the local governing body to hold a public hearing regarding the nature, costs and other facts relating to the project.

Patron: Edwards

01/23/04 Senate: Referred to Committee on Education and Health

01/29/04 Senate: Rereferred to General Laws

Notes: City Position: Oppose

RESOLUTION NO. 2091

WHEREAS, the retirement of Judge Alfred Swersky from the Alexandria, Virginia Circuit Court has created a vacancy on that court; and

WHEREAS, the Alexandria, Virginia Bar Association interviewed candidates for the vacancy and highly recommends that Judge Nolan Dawkins be appointed to fill the vacancy; and

WHEREAS, the City of Alexandria's legislative delegation to the General Assembly, following precedent in Northern Virginia and with input from the Bar and citizens, interviewed candidates, and unanimously recommended Judge Dawkins be appointed to the Alexandria Circuit Court by Governor Mark Warner; and

WHEREAS, Nolan B. Dawkins has served with distinction on the Alexandria Juvenile and Domestic Relations Court for more than nine years; and

WHEREAS, during his tenure on the bench Judge Dawkins has been repeatedly recognized as an innovative and effective jurist, and the Alexandria Juvenile and Domestic Relations Court has been repeatedly recognized as an innovative body and model for courts in the region, state and nation; and

WHEREAS, Judge Dawkins' prior professional experience includes exemplary service as an Assistant Alexandria City Attorney, attorney in private practice, a Substitute District Court Judge, and a retired 1st Lieutenant in the United States Army; and

WHEREAS, Judge Dawkins' professional affiliations include membership in the Virginia State Bar Association, National Council of Juvenile and Family Court Judges, Old Dominion Bar Association, Alexandria Bar Association, Association of District Court Judges of Virginia, and the Virginia State Bar Association, Judicial Section; and

WHEREAS, Judge Dawkins' professional highlights include membership on numerous local and national judicial faculties and committees, membership on the Board of Governors of the Virginia State Bar, Criminal Law Section, membership on the Board of Governors of the Alexandria Bar Foundation, and former membership in the George Mason American Inn of Court, the Eighth District Ethics Committee of the Virginia State Bar, and the Virginia State Bar Faculty on Professionalism, among others; and

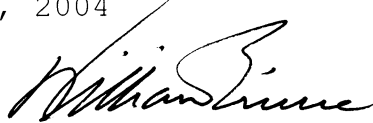
WHEREAS, Judge Dawkins' influence extends well into the Alexandria community and beyond where he has served numerous charitable organizations and has been recognized with numerous awards for his public service on and off the bench;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA, VIRGINIA:

1. That City Council supports judicial independence in the Commonwealth of Virginia.
2. That City Council supports fairness in the Commonwealth's judicial selection process.
3. That City Council recognizes our diverse population and supports diversity in our judiciary through the appointment of qualified candidates regardless of gender, and racial and ethnic backgrounds.

4. That City Council acknowledges and supports the findings of the Alexandria Bar Association and of Alexandria's state delegation that Judge Nolan Dawkins is highly qualified and the recommended candidate for appointment to the Alexandria Circuit Court.
5. That City Council firmly believes Judge Nolan Dawkins possesses the professional experience, legal and judicial expertise, judicial temperament, and commitment to the Constitutions and laws of the Commonwealth of Virginia and United States to serve honorably on the Alexandria Circuit Court.
6. That City Council strongly urges the members of the Commonwealth's House and Senate committees for Courts of Justice and the entire General Assembly to support Judge Dawkins' appointment to the Alexandria Circuit Court, and requests that copies of this resolution be provided to Governor Mark Warner, members of the Courts of Justice committees and the City's General Assembly delegation.

ADOPTED: February 3, 2004



WILLIAM D. EUILLE MAYOR

ATTEST:



JACQUELINE M. HENDERSON, CMC City Clerk

RESOLUTION NO. _____

WHEREAS, the retirement of Judge Alfred Swersky from the Alexandria, Virginia Circuit Court has created a vacancy on that court; and

WHEREAS, the Alexandria, Virginia Bar Association interviewed candidates for the vacancy and highly recommends that Judge Nolan Dawkins be appointed to fill the vacancy; and

WHEREAS, the City of Alexandria's legislative delegation to the General Assembly, following precedent in Northern Virginia and with input from the Bar and citizens, interviewed candidates, and unanimously recommended Judge Dawkins be appointed to the Alexandria Circuit Court by Governor Mark Warner; and

WHEREAS, Nolan B. Dawkins has served with distinction on the Alexandria Juvenile and Domestic Relations Court for more than nine years, and

WHEREAS, during his tenure on the bench Judge Dawkins has been repeatedly recognized as an innovative and effective jurist, and the Alexandria Juvenile and Domestic Relations Court has been repeatedly recognized as an innovative body and a model for courts in the region, state and nation; and

WHEREAS, Judge Dawkins prior professional experience includes exemplary service as an Assistant Alexandria City Attorney, attorney in private practice, a Substitute District Court Judge, and a retired 1st Lieutenant in the United States Army; and

WHEREAS, Judge Dawkins' professional affiliations include membership in the Virginia State Bar Association, National Council of Juvenile and Family Court Judges, Old Dominion Bar Association, Alexandria Bar Association, Association of District Court Judges of Virginia, and the Virginia State Bar Association, Judicial Section; and

WHEREAS, Judge Dawkins' professional highlights include membership on numerous local and national judicial faculties and committees, membership on the Board of Governors of the Virginia State Bar, Criminal Law Section, membership on the Board of Governors of the Alexandria Bar Foundation, and former membership in the George Mason American Inn of Court, the Eighth District Ethics Committee of the Virginia State Bar, and the Virginia State Bar Faculty on Professionalism, among others; and

WHEREAS, Judge Dawkins' influence extends well into the Alexandria community and beyond where he has served numerous charitable organizations and has been recognized with numerous awards for his public service on and off the bench;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA VIRGINIA:

1. That City Council supports judicial independence in the Commonwealth of Virginia.
2. That City Council supports fairness in the Commonwealth's judicial selection process.
3. That City Council recognizes our diverse population and supports diversity in our judiciary through the appointment of qualified candidates regardless of gender, and racial and ethnic backgrounds.
4. That City Council acknowledges and supports the findings of the Alexandria Bar Association and of Alexandria's state delegation that Judge Nolan Dawkins is highly qualified and the recommended candidate for appointment to the Alexandria Circuit Court.

5. That City Council firmly believes Judge Nolan Dawkins possesses the professional experience, legal and judicial expertise, judicial temperament, and commitment to the Constitutions and laws of the Commonwealth of Virginia and United States to serve honorably on the Alexandria Circuit Court.
6. That City Council strongly urges the members of the Commonwealth's House and Senate committees for Courts of Justice and the entire General Assembly to support Judge Dawkins' appointment to the Alexandria Circuit Court, and requests that copies of this resolution be provided to Governor Mark Warner, members of the Courts of Justice committees and the City's General Assembly delegation.

ADOPTED: _____

WILLIAM D. EUILLE, MAYOR


ATTEST:

JACQUELINE M. HENDERSON, CMC City Clerk

City of Alexandria, Virginia

Docket
Item # 18

MEMORANDUM

FROM: LUDWIG P. GAINES, MEMBER OF COUNCIL 

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
PHILLIP SUNDERLAND, CITY MANAGER

DATE: JANUARY 22, 2004

RE: DEFENSE OF LIVING WAGE ORDINANCE

Alexandria's living wage ordinance is in jeopardy!

Two bills have been introduced in the Virginia General Assembly that, if passed, will nullify our living wage ordinance and prohibit other jurisdictions in the Commonwealth from enacting similar measures without prior approval from the General Assembly. These bills have been introduced by State Senators, Jay O'Brien, Clifton (bill # 290) and Frank Wagner, Virginia Beach (bill #498).

At the request of Mayor Euille, I participated in a press conference this past Monday (Jan. 19th) defending our living wage ordinance at the Richmond statehouse. Speakers also included Delegate Walter Tejada from Arlington, as well as representatives from religious, labor and community organizations. As you may recall, after considerable study and public deliberation, Alexandria was the first jurisdiction in the Commonwealth to adopt a living wage in June 2000. We were followed by Charlottesville (2001) and Arlington (2003).

Opposition to our living wage ordinance rests on the grounds that it violates the state constitution/Dillon Rule because the City of Alexandria failed to obtain prior approval from the general assembly before enacting it.

To the contrary, authority for a living wage can be found in the state's public procurement act. Our city attorney has opined that this act allows local jurisdictions to consider "best value" when awarding service contracts.

To this end, our experience as a city government with the living wage has been a complete success. City services benefit from improvements in service delivery quality (landscaping, janitorial services, parking garage attendants). Contract employers support a living wage because it helps them to recruit and retain a higher quality workforce. Basic labor wage theory supports the proposition that on the lower end of the wage scale,

that the higher the wage the more applicants and higher skills of those in the applicant pool, as well as reduced frequency in turnover.

And, the benefits to the workers are clear. Low-income wage earners are able to work fewer jobs, thus enabling them to better provide for basic life necessities and spend more time with their families. This also impacts on the demands for welfare and other forms of public assistance. It is ironic that those who oppose a living wage in the Commonwealth purport to be "family value" politicians, yet they seemingly have chosen to ignore the family value benefits a living wage offers.

Immediate action on the part of the Alexandria City Council is needed to defend our living wage. The attempt to nullify our living wage ordinance should be seen for what it is: an unfounded attempt to eliminate the lawful exercise of local authority under an existing state act. Regrettably, for many, myself included, these anti-living wage and anti-family value bills represent yet another attempt at the state level to eviscerate the power of localities to address pressing local concerns impacting our economy and the quality of city services, and the quality of life enjoyed by our residents and city service recipients.

Recommendations:

1. That the Mayor and City Council adopt a resolution to be presented to the general assembly defending our living wage.
2. That the Mayor and City Council send letter(s) outlining our justifications for a living wage to Messrs. O' Brien and Wagner, and the general assembly leadership. And,
3. That the City's leadership, in conjunction with our state delegation, commence a campaign with supportive community groups and individuals in Alexandria, Arlington, Charlottesville and statewide aimed at presenting the best defenses for a living wage.

LPG

Attached please find:

The City Manager's June 7, 2000 Memorandum to Council re: the living wage ordinance, and a Jan. 21, 2004 news article from the Northern Virginia Journal outlining the issues.

CC: Mark Jinks
Bernie Caton

Official seeks to nix living wage

State senator says Alexandria, Arlington acted against Va. Constitution

By **MICHAEL NEIBAUER**
and **SARAH KELLEY**
Journal staff writers

Living-wage provisions in Arlington and Alexandria must be eliminated to preserve the sanctity of the Virginia Constitution, a state senator said Tuesday.

Sen. Jay O'Brien, R-Clifton, has introduced a bill to nullify any living-wage provision established by a Virginia jurisdiction if the locality did not adhere to the state's Dil-

lon Rule. The Dillon Rule asserts that local governments possess only those powers expressly granted by the General Assembly.

Alexandria and Arlington failed to obtain legislators' OK before adopting their living-wage programs. By enacting policy without the Assembly's consent, O'Brien said, the localities snubbed the Constitution.

"If we say no to this [bill], we are basically nullifying that section of the Constitution," O'Brien said.

Alexandria established its living wage,

now \$10.89 per hour, in 2000. Arlington adopted its \$10.98 wage in 2003. The policy only applies to government contracts of more than \$50,000 in Alexandria and \$100,000 in Arlington, and the wage is only required to be paid to employees hired by contractors for work on county or city-owned property.

Alexandria City Councilman Ludwig P. Gaines said the Dillon Rule was not violated because the city enacted the living wage un-

Please see WAGE, Page 23

State senator: Living wages hurt businesses

WAGE from Page 1

der the state's public procurement act. This legislation allows local governments to consider "best value" when awarding contracts for services.

Both Alexandria and Arlington officials argue enforcing a living wage enables contractors to hire and retain quality employees, which results in better service.

"Who better to judge what service is best for a locality than the localities themselves," Gaines said. "This is just another effort by the state to eviscerate the power of localities to deal with matters within their borders and it's deeply troubling."

Arlington County Board Chairwoman Barbara A. Favola said the board was not making a political statement by adopting

a living wage, but simply ensuring the county gets the best services possible.

While O'Brien contends his measure is designed simply to protect the Dillon Rule, he acknowledged he is not a living wage proponent.

"I think that it hurts businesses in Virginia to have different hiring policies from one local government to another," O'Brien said. "That's why we have to weigh it [in the General Assembly]."

O'Brien, a former delegate, introduced a similar measure for House consideration during the 2001 legislative session. That bill failed in committee with only three favorable votes.

The living-wage guidelines attract skilled workers and provide something of a

guarantee that contracts will be fulfilled, said Del. Albert C. Eisenberg, D-Arlington. O'Brien, he said, should leave it alone.

"It's incomprehensible that he would oppose something like that," Eisenberg said.

O'Brien said local officials must have either forgotten the Dillon Rule requirements, or they purposefully "undermined the Constitution."

"On reflection, they probably just forgot to [receive legislative approval]," he said facetiously. "Or they intentionally subverted the process. We can't have local governments acting unilaterally."

Del. Brian J. Moran, D-Alexandria, disagreed.

"For those localities that made those de-

cisions, if the constituents support them, then just leave it to the local decision-makers," Moran said.

Alexandria was the first locality in Virginia to adopt a living wage, and city officials have touted its success on a number of levels. Charlottesville also enacted a living wage in 2001, citing authority under the state's procurement act.

In addition to enhancing service in the city, Gaines said, the living wage has enabled people to stop working numerous low-paying jobs and start spending more time with their families.

"This bill is coming from a so-called 'family value' politician who is ignoring the family value benefits the living wage offers," he said.

MEMORANDUM

DATE: JUNE 7, 2000

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: ORDINANCE TO AMEND THE CITY CODE TO PROVIDE FOR THE PAYMENT OF A "LIVING WAGE" IN THE PROCUREMENT OF CERTAIN SERVICES BY THE CITY AND TO CONFORM CITY PROCUREMENT REGULATIONS TO RECENT CHANGES IN STATE LAW

ISSUE: Consideration of an ordinance to require the payment of a "living wage" in certain competitively bid City service contracts, and to adopt procurement changes recently enacted by the General Assembly.

RECOMMENDATION:

- (1) That City Council pass the proposed ordinance (Attachment I) on first reading, and set it for public hearing, second reading and final passage on Saturday, June 17; and
- (2) That, in the event Council adopts the proposed ordinance following the public hearing and in order to fund the ordinance's living wage requirement in FY 2001, \$215,000 be transferred from the FY 2001 General Fund contingent reserves account (103556-2707) to a Citywide non-departmental account.

BACKGROUND: Since 1994 when the City of Baltimore, Maryland, enacted the first living wage ordinance, numerous cities and counties in the United States have been debating the pros and cons of the adoption of local ordinances and procurement policies that establish a wage rate floor for work performed under municipal service contracts. To date, 40 to 50 local governments nationwide have adopted living wage policies. These policies and their applicability vary tremendously, from voluntary compliance to mandatory standards that set out specific wage floor and health insurance requirements. At the federal level, in 1965 Congress enacted the Service Contract Act which establishes minimum compensation rates for contractors providing services to the federal government.

For the last several years, City Council and community members have discussed the merits of a living wage policy for the City. On April 15, Council held a work session on the subject, indicated its interest in establishing a living wage policy for the City, and directed staff to draft a living wage ordinance that would apply to certain competitively bid City service contracts.

The proposed ordinance is intended to establish a living wage policy that will benefit low-wage workers on certain City service contracts, can be administered effectively, and will be clear to contractors who provide services to the City. This proposed ordinance will impact about 50 City service contracts that total some \$4 million in annual value. The cost of the ordinance, as applied to these contracts, is estimated at \$215,000 in FY 2001, when the ordinance will be phased in, and about \$430,000 per year thereafter. It is estimated that 100 to 150 low-wage workers would be assisted by the policy.

The proposed ordinance also implements changes made by the General Assembly during its 2000 session to the state procurement law.

DISCUSSION:

A. Living Wage Requirement

The proposed ordinance is aimed at increasing the income of those persons gainfully employed and working on City service contracts so that they can better provide for themselves and their families while contributing as productive members of society by earning a wage that is above the federally established poverty line for a family of four (currently \$17,050). While the federal government has established a minimum wage rate (\$5.15 per hour as of September 1997) that applies to the private and public sectors, that wage rate is not sufficient to adequately support households living in the Washington, D.C., metropolitan area. In addition, under welfare-to-work programs, the City has been charged with assisting low-income citizens to become self-sufficient and, therefore, not dependent on government for support.

We anticipate that enactment of the proposed ordinance's living wage provisions will result in an improvement in the quality of services provided under City service contracts. Generally, the provision of higher wages helps to increase employee morale, lower employee turnover and reduce employee absenteeism; it also can lead to a larger, more skilled labor pool for a contractor to choose from in filling positions. Discussions with City service contractors have confirmed this. We expect, therefore, that enactment of the ordinance will enable the City to receive "best value" for the services for which it will be paying a living wage.

In drafting the proposed ordinance, staff reviewed the ordinances of other jurisdictions that have enacted a living wage requirement in service contracting, discussed the administration of a living wage requirement with a number of service contractors, met and reviewed materials provided by the Northern Virginia Living Wage Coalition, and received the Coalition's views on an initial draft ordinance. These efforts have resulted in a proposed ordinance that will provide a living wage to those employed under applicable City service contracts. The key features of the proposed living wage ordinance include the following:

- The living wage will be applicable to those service contracts formally competitively bid or competitively negotiated under City procurement procedures. While there is now a \$30,000 contract threshold for formal competitive bidding (to be increased to \$50,000 under the proposed ordinance), the City occasionally uses the formal competitive bidding process for contracts less than \$30,000.

- The living wage will be calculated by adding the U.S. Department of Health and Human Services Poverty Guidelines for a family of four (currently \$17,050 divided by 2,080 hours per year, which is a typical full-time work year, or \$8.20 per hour) to the average cost of health and welfare benefits per hour incurred by a private industry employer of more than 500 or more workers (currently \$1.64 per hour) calculated by the U.S. Department of Commerce, Bureau of Labor Statistics. This calculation will result in the hourly minimum wage that will be required to be paid under applicable City service contracts. The sum of these two statistical benchmarks is currently \$9.84 per hour.

City staff considered the initial proposal of having a dual living wage (a lower wage of \$8.20 if health insurance was provided and a higher wage if health insurance was not provided), but determined that a dual scheme would be difficult to communicate to contractors and difficult to administer. Also, we believed that most City service contractors would choose to provide the health benefit portion in cash and would not provide a health insurance benefit. Therefore, a single living wage rate structure that combines the two federal benchmarks has been used to arrive at the \$9.84 per hour living wage rate.

- The federal benchmarks proposed to calculate the living wage are periodically updated by the federal government and will, therefore, be adjusted by the City each year on July 1, using the federal benchmarks as of July 1, to be applicable to City contracts as they are rebid or renewed during that fiscal year. The first such adjustment will occur on July 1, 2001.
- The living wage will apply to service contract work conducted on property owned or controlled by the City. This captures the bulk of low-wage service contracts, and excludes contracts (such as substance abuse residential treatment) conducted on private property where defining work that is being done for the City is difficult because City services are often delivered simultaneously with services for other organizations.
- Periodic reporting to the City of wages paid to individual employees under service contracts will be required, as well as making records available for City audit.
- The living wage will be required of subcontractors to the City's service contractors.
- Employee protection provisions are included in the proposed ordinance, such as the posting of the living wage requirement in English and Spanish at work sites, allowing complaints to be filed by employees with the City's Purchasing Agent, and a prohibition against retaliation based on an employee's filing of a living wage related complaint.
- Default and debarment provisions will apply to a contractor that fails to pay the required living wage and then fails to cure that failure when directed to do so by the City.
- Interest will be required to be paid to an employee for any back pay correction related to the living wage requirement.

- The living wage requirement will not apply to jail inmates (such as those working under a food services contract), other public entities (such as the City Schools, ARHA), service contracts not formally and competitively bid (such as grants and small non-competitively bid service contracts), construction, construction management and similar contracts, and contracts for professional services.
- The effective date of the Living Wage provisions of this ordinance will be October 1, 2000, in order for the City to plan an orderly transition to the living wage requirement. The living wage requirement will be applied to applicable contracts after October 1, 2000, at the time they are rebid or renewed. It is likely that the living wage requirement will be added to most applicable City service contracts sometime during FY 2001.
- It is staff's intent to require City service contractors to utilize the services of the City's *JobLink* Program so that more City residents (greater than the 43% estimated in an earlier survey) can receive the benefit of the living wage ordinance. Several of the City's service contractors already have an ongoing, positive working relationship with *JobLink*.

The proposed ordinance applies a living wage requirement only to contractors who provide certain services to the City; it does not apply to the City itself. It is clearly appropriate, however, to consider the living wage policy in relation to employees working for the City. A preliminary review indicates that, in general, the wage rate for individuals working in City departments (in a traditional employment structure) is above the \$8.20 per hour benchmark rate. However, when the health insurance benefit of \$1.64 per hour is added, a number of City temporary positions, and permanent positions working less than 10 hours per week, fall below the \$9.84 per hour standard. This is because these employees are not eligible for health insurance. The types of positions occupied by these employees include certain blue collar positions, entry level clerical positions, and library aides. The estimated annual cost to implement the living wage provisions for these City positions is between \$100,000 and \$200,000. We will study the application of a living wage requirement to these positions during the development of the FY 2002 budget.

There are three categories of less traditional types of City positions that are not on the City's regular salary scales which will also need to be analyzed during the FY 2002 budget development process to see if the living wage should be applied to them. Two groups are in the Community Services Board area. These are sheltered workshop employees and adolescents who serve as peer advisors. The third group is comprised of companion aides paid by the Department of Human Services. We estimate the cost of applying a living wage to these three categories of positions may be up to \$700,000 per year. Given this high cost, we believe that the FY 2002 budget process (where City priorities compete within limited resources) is the proper venue for determining whether to apply a living wage requirement to these City positions.

B. Procurement Changes Arising From Recent General Assembly Action

As indicated earlier, this year the General Assembly acted on a number of pieces of procurement legislation that impact local government. The proposed ordinance adopts the following state law changes:

- Establishing "best value" as a permitted consideration when procuring goods and nonprofessional services: The concept of "best value" will allow the City to consider criteria other than cost when procuring goods and nonprofessional services. This will enable the City to consider such factors such as life cycle costing, a vendor's record of past performance, the effect on agency productivity and other factors. "Best value," when applied, will help address the potential downside results that sometimes occurs in a "low bid-driven" decision environment. The new state law that permits "best value" procurement prohibits its use for professional services and construction. The new state authority for "best value" procurement also helps build the case for the living wage policy that is recommended for adoption.
- Increasing the small purchase ceiling from \$30,000 to \$50,000: The effect of this change is to establish more flexibility when it is in the City's interest to use small purchase procurement procedures rather than more cumbersome and time consuming competitive bid procedures. It is the City's practice to often use the competitive bid procedures when the expected contract amount is less than \$30,000 since, in many circumstances, this is the way the City obtains the best price and service. That practice would continue even though the small purchase ceiling is raised to \$50,000. This change, I note, would have been recommended by staff whether or not the living wage proposal was being considered by Council.
- Flexibility in professional service contracting: Subject to the approval of the City Manager, the competitive negotiation process would not be mandatory if the aggregate amount of work was not expected to exceed \$30,000. This change creates flexibility for the City to obtain the professional services it needs for smaller amounts of work without going through the lengthy and more formal competitive negotiation process.
- Allowing multiple awards of a particular good or service: This would allow more than one vendor to be used by City departments, and creates competition for business and increased vendor responsiveness after a contract is awarded.
- Changes to the notice of award requirements: These mandatory proposed changes trigger the time frame for appeals of City purchasing contract awards.
- Anti-discrimination provisions: Anti-discrimination provisions are amended to mirror the mandatory changes enacted by the State.

- **Drug-free workplace:** Drug-free workplace requirements will be added as standard language to contracts over \$10,000.
- **Fixed price contract modifications:** Under prior state law, a fixed price contract could not be increased by more than 25 percent or \$10,000, whichever is greater, without advanced written approval of the local governing body. State law now permits the dollar ceiling to be raised to \$50,000. This change provides more flexibility in dealing with changes and small contracts.

FISCAL IMPACT: The annual cost of the living wage proposal to the City is estimated at approximately \$430,000 per year. This estimate is comprised of \$400,000 for contract cost increases, and \$30,000 for City monitoring and contract wage auditing. Due to phase-in FY 2001, the cost in FY 2001 is estimated at \$215,000, with the full year annualized cost of \$430,000 occurring in FY 2002. As the current tight labor market loosens, the cost differential between the living wage rate required by the City and the general labor market will widen, thereby increasing the cost.

The \$215,000 is available within the FY 2001 approved budget within the contingent reserves account, which has a budget of \$462,700 to address unforeseen high priority events that may occur through June 30, 2001. This action will leave \$247,700 in the account for the balance of the year.

Any further expansion of the living wage coverage would increase costs in FY 2002 beyond the \$430,000 identified above.

ATTACHMENT:

Attachment 1 - Proposed Ordinance

Attachment 2 - Research and Findings in Regards to the Living Wage

STAFF:

Mark Jinks, Director, Financial and Information Technology Services

Jack Pitzer, Purchasing Agent, Department of Finance