


**City of Alexandria**

**MEMORANDUM**

DATE: FEBRUARY 27, 2012  
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL  
FROM: RASHAD M. YOUNG, CITY MANAGER   
SUBJECT: RECOMMENDATIONS AND STATUS REPORT (NO. 3) ON LEGISLATION  
INTRODUCED AT THE 2012 GENERAL ASSEMBLY SESSION

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**ISSUE:** Recommendations and status report (No. 3) on legislation introduced at the 2012 General Assembly Session.

**RECOMMENDATION:** That City Council approve the positions on the State budget that are included in Attachment 1 (Recommended Positions on Budget Amendments), as recommended by City Council's Legislative Subcommittee (Vice Mayor Donley and Councilman Smedberg).

**DISCUSSION:** The 2012 General Assembly Session has now passed the halfway mark. As of Wednesday, February 15, the House may consider only Senate bills, and the Senate may consider only House bills. Committee action must be completed on all bills by March 5, and adjournment is scheduled for March 10. As discussed below, it is uncertain whether the General Assembly will approve a budget before the scheduled end of the Session.

**City Package.** The following are bills from the City's legislative package that the City asked members of the City's delegation to introduce or support (Attachment 2 is a status report on "City Package" bills):

- A number of bills were introduced in both the House and the Senate to change state law regarding the opening day of school. The Senate Education and Health Committee, on a vote of 9-6, defeated its proposals (including Senator Ebbin's SB 257) that would have allowed each local school board to determine the opening day of school. The House passed a bill (HB 1063), which is now before the Senate Education and Health Committee. At least two members of that Committee will have to reverse their earlier votes for the House bill to go to the Senate floor.
- SB 261, introduced by Senator Ebbin, seeks to create a grant program to improve preschool programs, using unused moneys that have been appropriated to the Virginia Preschool Initiative. SB 261 has been approved by the Senate and has been assigned to the House Appropriations Committee. HB 144, a similar bill introduced by Delegate David Englin, was defeated in the House Appropriations Committee several weeks ago.

- HB 894 and SB 493 are identical bills that direct the State Corporation Commission to evaluate potential energy saving and conservation projects based on the total energy savings and return on investment they create for the entire state. These bills have passed both the House and Senate.
- SB 263 (Ebbin), which would have prohibited discrimination against public employees based on sexual orientation, was defeated.
- HB 1099 (Delegate Herring) would amend the Virginia Human Rights Act to prohibit discriminatory actions with respect to hiring or the terms and conditions of employment; and prohibit the various types of employment discrimination, including age discrimination, for any employer with five or more employees. The bill was defeated.
- HB 1027 would allow two or more localities to enact a new 2.1 percent motor fuels tax to pay for the construction and operation of one or more high capacity transit lines. HJ 146 (Delegate Herring) and SJ 52 (Senator Ebbin) ask the Commonwealth Transportation Board to make high capacity transit a priority for funding by the Commonwealth. All three measures were defeated.
- Budget proposals from the City Package are addressed below, in the discussion of amendments to the State budget (including Attachment 4).

Attachment 3 is a status report on other bills on which the City has taken a position.

**Eminent Domain.** Legislation to continue the effort to amend Virginia's Constitution with respect to eminent domain has passed both the House and Senate, and will now go on the November ballot for voter approval.

Companion bills are also making their way through the House and Senate to define lost access and lost profits, and establish the framework for determining their value. This legislation will become effective January 1, 2013, if the constitutional amendment is approved.

Lost access is defined as a loss of direct access to property if a portion of the property has been taken or damaged. If a property owner's experience is the same as that of the general public with respect to lost access resulting from the locality's exercise of its police power (e.g., left turns at an intersection are prohibited, where they were formerly allowed), the property owner will not be compensated for this loss.

Lost profit is defined as a loss of business profits, using generally accepted accounting principles, for up to three years, as a result of the taking of a property, and the business is owned by the property owner, or by a tenant whose lease gives him exclusive possession of substantially all the property taken. Business profits are defined as the net income for federal tax purposes. Loss of profits does not have to be compensated if the loss can be prevented by

the relocation of the business; or if the owner can take steps that a reasonable person would take to prevent the loss.

**Regional Transportation Governance.** Bills that were introduced in both houses on behalf of the Governor to combine the Northern Virginia Transportation Authority (NVTA) and the Northern Virginia Transportation Commission (NVTC) have been substantially modified. Both measures proposed major governmental reorganizations, of which the NVTA/NVTC merger was but a small part. Northern Virginia localities, including Alexandria, have opposed similar proposals in the past.

What is likely to be enacted in place of the immediate NVTA-NVTC merger is legislation that will require the Northern Virginia Transportation Authority, the Northern Virginia Transportation Commission, and the Northern Virginia Regional Commission to develop a plan that will consolidate transportation planning and policy making, and consolidate these three agencies into one or two. The plan, and a timetable for its implementation, will be required to be submitted to the General Assembly by December 1, 2012. Other entities affected by the plan (e.g., the Secretary of Transportation and the Director of the Department of Rail and Public Transportation) will be involved in its development. The advantages and disadvantages of creating a sub-regional metropolitan (transportation) planning organization (the Council of Governments now serves this purpose for the DC region) must also be addressed as a part of this study.

Legislation (HB 601) to set qualifications and requirements for persons appointed to the WMATA Board has passed the House and is now before the Senate Committee on Local Government.

**Transportation Funding.** The House and Senate continue to be far apart on issues of transportation funding. The House continues to pursue a diversion of sales tax and other revenues from the general fund to the Transportation Trust Fund. The Senate believes that there is not sufficient general fund revenue to use a portion of it for transportation without harming general fund programs, such as education, public safety, and mental health. It has proposed indexing the gasoline tax as a means of increasing funds for transportation.

Delegate Vivian Watts (Fairfax) recently made a presentation to the Northern Virginia legislative delegation on transportation funding. She noted that if the House proposal were passed, Northern Virginia would provide 34 percent of the sales tax revenue, but get only 7 percent of the transportation spending. This compares to the 19 percent of transportation spending that goes to Northern Virginia when the distribution is made through the existing statutory formula (Attachment 4).

The House and Senate bills will likely be sent to a conference committee. There would also need to be a provision included in the budget if sales tax revenue is to be shifted from the general fund to the Transportation Trust Fund.

**State Budget.** The House Appropriations and Senate Finance Committees made their budget recommendations on February 19. The House Appropriations recommendations, with a few changes, were adopted by the full House. The Senate adopted its Finance Committee recommendations. The Senate was unable to pass the budget, since only 20 Senators voted for the budget, and 21 must support it for it to pass. Senate Democrats refused to support the budget until changes are made to the makeup of several Senate committees, to provide additional seats for the Democrats. (This is a continuing point of contention between Senate Democrats and Republicans that goes back to the first day of Session.)

The House Budget will now go to the Senate, where there is likely to be another stalemate, with the Republicans unlikely to get the necessary 21 votes. Since the Senate did not pass a budget, it had nothing to send to the House. If the Senate stalemate continues, the General Assembly may leave town with no budget. Among other things, this would make it difficult for local governments to adopt their FY 2013 budgets, since they would not know how much state aid to assume. The State needs a budget by June 30, since all appropriations cease at that time (the Governor could likely use emergency powers to continue some needed services, but this would not be a situation anyone would like, and it would probably result in the shutdown of many State [and some local] government functions). Staff has no way to predict when a budget will be enacted.

Attachment 1 is a chart showing budget recommendations from the Governor, the House, and the Senate (using the Senate's amended but unapproved budget), together with recommendations on the amendments by City Council's Legislative Subcommittee. (Note that funding for teen pregnancy was not included in either the House or Senate proposals, so it will not be in the final budget.)

As noted in Attachment 1, the House and Senate make different recommendations on funding K-12 education. In general, the Senate recommendations are more generous.

- The Senate provides a total of \$33.7 M to Alexandria City Public Schools, while the House total is \$33 M. (Both these totals include funding for the Virginia Preschool Initiative.) The Governor had proposed a total of \$32.8 M.
- The Senate fully restored the Cost of Competing funds for Northern Virginia, which the Governor had significantly reduced; this added approximately \$528 K to ACPS funding. The House restored about a third of this (approximately \$175 K). The Cost of Competing funds are included in the total funds shown in the first bullet (above).
- The Senate funds the Virginia Preschool Initiative (VPI) at \$6,800/student, while the House funds it at \$6,000/student. Some of the City's VPI appropriation is used by ACPS.
- The House also sets a lower VRS rate for teachers than does the Senate (it makes a direct State payment to VRS to make up the difference). This should result in some additional savings to ACPS, although staff cannot determine the specific amount.

**Virginia Retirement System (VRS).** The General Assembly is still considering the four VRS bills reviewed in the last staff memo. SB 497 would require (1) local government and school

employees to pay the five percent employee contribution to VRS; and (2) the employer to give a salary increase of at least the same amount. SB 498 would create a new optional hybrid retirement plan, including defined benefit and defined contribution components, for most new VRS-covered employees. HB 1129 would make changes to the current defined benefit plan for Pre-2010 (Plan 1) employees, including a lengthier period of for calculation of average final pay; smaller COLAs for retirees; and a reduction in the multiplier (the percentage of average salary multiplied by years of service to determine retirement benefits). HB 1130 would create an optional hybrid plan, but the plan would not be available to local employees or teachers.

**ATTACHMENTS:**

Attachment 1: Recommended Positions on Budget Amendments, February 24, 2012

Attachment 2: Current Status of City Package Bills, February 24, 2012

Attachment 3: Current Status of Bills of Bills on Which the City Has Taken a Position, February 24, 2012

Attachment 4: Potential Distribution of Transportation Funding in Northern Virginia

**STAFF:** Bernard Caton, Legislative Director

**Attachment 1: Recommended Positions on Budget Amendments, February 24, 2012**

<b>Item</b>	<b>Governor</b>	<b>House</b>	<b>Senate</b>	<b>Legislative Committee Recommendation</b>
Local aid to the State	Sets local payback at \$50 M statewide	Decreases local payback by \$22.5 M (FY 13)	Decreases local payback by up to \$50 M in FY 13	Support greatest decrease possible
K-12 -Cost of competing	Eliminated funding for non-instructional staff (\$32.5 M regionwide)	Restores about a third of the funding	Restores \$30 M (considered full funding)	Support Senate proposal
Total K-12 funding <sup>1</sup>	\$32.8 M	\$33 M	\$33.7 M	Support Senate proposal
Alexandria Neighborhood Health Services	Reduced funding	Restored funding	Restored funding	Support House and Senate proposals
Health Dept. dental services	Reduced/eliminated funding	Restored \$1 M	Restored \$1 M	Support House and Senate proposals
Child advocacy centers	Eliminated funding	Eliminated funding	Restored \$931 K	Support Senate proposal
Healthy Families	Reduces by \$380 K	Reduces by \$380 K	Restored \$380 K	Support Senate proposal
Northern VA Family Services	Does not address	Reduced funding by \$400 K	Does not address	Support Senate proposal
Community Action Agencies	Reduced funding by \$500 K annually	Restored funding	Restored funding	Support House and Senate proposals
Project Discovery	Eliminated funding	Eliminated funding	Restored half the funding	Support Senate proposal
AIDS Drug Assistance	Added no new funding	Added no new funding	Fully funded (added \$500 K)	Support Senate proposal
Comprehensive Services Act	Reduced funding for special education needs	Reduced funding for special education needs	Restored \$5.4 M	Support Senate proposal
Beds for mental health crises	Did not address	Did not address	Added \$900 K	Support Senate proposal

<sup>1</sup> The House pays back some of the VRS money for teachers that the State underpaid last biennium, and requires no local match; this appears to lower the VRS payment that will be required of Alexandria City Public Schools by an undetermined amount. The Senate provides some funding to help local schools with their VRS pay-backs.

**Attachment 1: Recommended Positions on Budget Amendments, February 24, 2012**

<b>Item</b>	<b>Governor</b>	<b>House</b>	<b>Senate</b>	<b>Legislative Committee Recommendation</b>
Social Services admin. costs	Did not address	Did not address	Added \$1.5 M	Support Senate proposal
Housing	Not addressed	Not addressed	Adds \$1.5M	Support Senate proposal
Virginia Preschool Initiative	\$6,000/student	\$6,000/student	\$6,800/student	Support Senate proposal
State Aid to Libraries	Reduced 2%	Reduced 2%	Restored 2%	Support Senate proposal
Area Agencies on Aging (AAA)	Did not address	Added \$500 K	Added \$1.4 M	Support Senate proposal
Litter Control Grants	Transferred \$200 M from this fund to general fund	Accepted Governor's proposal	Rejected Governor's proposal	Support Senate proposal
VRS-local employer contribution rates	Does not address locality contribution rates	Requires VRS to use same investment return assumptions for localities that General Assembly uses for State employee rates (8%, not 7%)	Does not address locality contribution rates	Oppose House proposal
Local fines to the State Literary Fund	Did not address	Did not address	Deposit a portion of court fines from violations of local ordinances into the State Literary Fund (estimated yearly loss to City: \$100,000 to \$200,000)	Oppose Senate proposal
Move sales tax revenues from general fund to transportation	Transfer \$110 M in current biennium, increasing amounts in future	Accepted Governor's proposal	Rejected Governor's proposal	Support Senate proposal

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## **Current Status of City Package Bills February 24, 2012**

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### **HB 5 Constitutional amendment; taking or damaging of private property for public use (voter referendum).**

Patrons: Bell, Robert B., Byron, Cole, Head, Hodges, Joannou, Massie, Morris, O'Bannon, Poindexter, Ramadan, Rush, Scott, E.T. and Webert

Summary as passed House:

Constitutional amendment (voter referendum); taking or damaging of private property; public use. Provides for a referendum at the November 6, 2012, election to approve or reject an amendment that revises the prohibition on the enactment by the General Assembly of laws whereby private property may be taken or damaged without just compensation. The bill is identical to SB 240.

02/24/12 Senate: Passed Senate (22-Y 16-N)

Notes: Position: Oppose

### **HB 15 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Habeeb, Greason, Albo, Anderson, BaCote, Brink, Bulova, Carr, Cline, Comstock, Cox, M.K., Crockett-Stark, Dance, Dudenhefer, Edmunds, Englin, Fariss, Filler-Corn, Garrett, Head, Helsel, Herring, Hodges, Hope, Howell, A.T., Johnson, Keam, Kilgore, Kory, LeMunyon, Lopez, Marshall, D.W., May, McClellan, McQuinn, Merricks, Minchew, Morefield, Morrissey, O'Quinn, Orrock, Plum, Putney, Ramadan, Robinson, Rush, Rust, Scott, J.M., Stolle, Surovell, Tata, Torian, Toscano, Tyler, Ward, Ware, O., Ware, R.L., Webert, Wilt, Wright and Yost

Summary as introduced:

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

02/14/12 House: Left in Education

Notes: Position: Support

### **HB 43 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Tata, Kory and Rust

Summary as introduced:

Public schools; opening of the school year. Allows local school boards to set the school calendar so that the first day students are required to attend school shall be no earlier than two weeks prior to Labor Day and no later than the day after Labor Day.

02/14/12 House: Left in Education

Notes: Position: Support



**HB 86 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Greason and Surovell

Summary as introduced:

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

02/14/12 House: Left in Education

Notes: Position: Support

**HB 113 School calendar; local school boards responsible for setting and determining opening of school year.**

Patron: Morrissey

Summary as introduced:

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

02/14/12 House: Left in Education

Notes: Position: Support

**HB 144 Virginia Preschool Initiative Local Grant Program; created.**

Patrons: Englin, Filler-Corn and Surovell

Summary as introduced:

Virginia Preschool Initiative Local Grant Program. Creates a grant program to be administered by the Virginia Department of Education to improve training for preschool educators; create, outfit, or expand preschool classrooms; implement the Virginia Quality Rating and Improvement System; ensure the availability of preschool education for the children of veterans; and create innovative early childhood programs for rural communities where access to services is difficult. The grant program shall be funded by the unused moneys allocated by the General Assembly towards the Virginia Preschool Initiative, which requires a local match in order for such funds to be utilized. Grants shall be awarded pursuant to a competitive request for proposals process designed to ensure that all service providers in the Commonwealth, regardless of size or geographic location, are afforded the opportunity to apply for funds.

02/20/12 House: Left in Appropriations

Notes: Position: Support

**HB 254 School calendar; local school boards allowed to set opening of school year.**

Patrons: Stolle and Surovell

Summary as introduced:

Public schools; opening of the school year. Allows local school boards, for years in which Labor Day falls on September 5 or later, to set the school calendar so that the first day students are required to attend school shall be no earlier than one week before Labor Day.

02/14/12 House: Left in Education

Notes: Position: Support

**HB 312 Electric and natural gas utilities; energy efficiency programs.**

Patron: Ware, R.L.

Summary as introduced:

Utility energy efficiency programs. Provides that an energy efficiency program proposed by an electric utility is in the public interest if the net present value of the benefits exceeds the net present value of the costs as determined by any three of four benefit cost tests. The four tests to be considered are the Total Resource Cost Test, the Utility Cost Test (also referred to as the Program Administrator Test), the Participant Test, and the Ratepayer Impact Measure Test. An electric utility's energy efficiency program may be deemed to be in the public interest if it provides measurable and verifiable energy savings to low-income customers or elderly customers. The current standard for what constitutes a cost-effective conservation and energy efficiency program conducted by a natural gas utility is revised to conform to these new provisions for electric utilities. Finally, the measure expands the definition of "energy efficiency program" with regard to electric utilities to include customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices.

01/19/12 House: Stricken from docket by Commerce and Labor

Notes: Position: Support

**HB 434 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Tata and Surovell

Summary as introduced:

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

02/14/12 House: Left in Education

Notes: Position: Support

**HB 602 School calendar; local school divisions to set.**

Patron: LeMunyon

Summary as introduced:

Public schools; opening of the school year. Allows local school divisions to set the school calendar so that the first day students are required to attend must be no earlier than the fourth Monday in August. Current law requires the first day to be after Labor Day unless a waiver is granted for good cause shown.

02/14/12 House: Left in Education

Notes: Positon: Support

**HB 613 Public employment; prohibits discrimination.**

Patrons: LeMunyon, Lewis and Plum

Summary as introduced:

Public employment; nondiscrimination. Prohibits discrimination in public employment based on race, color, religion, political affiliation, national origin, sex, age, disability, or any other reason

except reasons related to qualifications, ability, or performance. The bill contains technical amendments.

02/14/12 House: Left in General Laws

Notes: Position: Support

**HB 653 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Kory, Albo, Brink, Bulova, Comstock, Filler-Corn, Scott, J.M. and Surovell; Senators: Ebbin, Favola and Petersen

Summary as introduced:

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

02/14/12 House: Left in Education

Notes: Position: Support

**HB 692 Public employment; prohibits discrimination based on sexual orientation, race, etc.**

Patrons: Plum and Scott, J.M.

Summary as introduced:

Public employment; nondiscrimination. Prohibits discrimination in public employment based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, political affiliation, age, marital status, disability, sexual orientation, or status as a veteran. The bill contains technical amendments.

02/14/12 House: Left in General Laws

Notes: Position: Support

**HB 894 Electric and natural gas utilities; energy efficiency programs.**

Patrons: Ware, R.L., Cosgrove, Alexander, Englin, Joannou, Keam, Kory, Lewis, Lopez, McClellan, Plum, Purkey, Tyler and Ward

Summary as passed:

Utility energy efficiency programs. Provides that an energy efficiency program proposed by an electric utility is in the public interest if, among other factors, the net present value of the benefits exceeds the net present value of the costs as determined by the Commission upon consideration of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. The Commission's determination shall include an analysis of all four tests, and a program or portfolio of programs shall not be rejected based solely on the results of a single test. An electric utility's energy efficiency program may be deemed to be in the public interest if it provides measurable and verifiable energy savings to low-income customers or elderly customers. The current standard for what constitutes a cost-effective conservation and energy efficiency program conducted by a natural gas utility is revised to conform to these new provisions for electric utilities. Finally, the measure expands the definition of "energy efficiency program" with regard to electric utilities to include customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices.

02/21/12 Passed House and Senate

Notes: Position: Support

**HB 977 Virginia Human Rights Act; prohibits discrimination employment based on sexual orientation.**

Patrons: Scott, J.M., Hope and McClellan

Summary as introduced:

Virginia Human Rights Act; prohibited discrimination; sexual orientation. Prohibits discrimination in employment based on sexual orientation. The bill defines "sexual orientation" as a person's actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression. The bill expressly provides that "sexual orientation" shall not include any person's attraction towards persons with whom sexual conduct would be illegal due to the age of the parties. the bill also codifies existing prohibited discrimination in employment based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran. The bill contains technical amendments.

02/14/12 House: Left in General Laws

Notes: Position: Support

**HB 1003 Employment discrimination; no employer shall discharge on basis of age.**

Patrons: Ramadan and Herring

Summary as introduced:

Human Rights Council; causes of action for discrimination. Provides that no employer employing more than five but less than 20 persons shall discharge any such employee on the basis of age if the employee is 40 years of age or older. Currently, the protection against age discrimination applies to an employer employing more than five but less than 15 persons. Federal law applies to workplaces with 20 or more employees.

02/14/12 House: Left in General Laws

Notes: Position: Support

**HB 1027 Motor fuels tax; permits two or more localities to impose.**

Patron: Englin

Summary as introduced:

Local motor fuels tax. Permits two or more localities that are constructing or operating high capacity transit systems to impose a local motor fuels tax at the rate of 2.1 percent of the wholesale price of fuels sold to retailers. The revenue generated from the tax shall be used to construct or operate high capacity transit systems.

02/06/12 House: Passed by indefinitely in Finance

Notes: Position: Support

**HB 1063 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Tata, Greason, Habeeb, LeMunyon, Albo, BaCote, Bell, Richard P., Brink, Bulova, Carr, Comstock, Dance, Englin, Farrell, Filler-Corn, Garrett, Herring, Hope, Johnson, Keam, Kory, Lopez, McClellan, Merricks, Morrissey, Plum, Ramadan, Robinson, Rush, Rust, Scott, J.M., Sickles, Spruill, Surovell, Torian, Toscano, Ward, Ware, O., Watts, Wright and Yost

Summary as passed House:

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

02/03/12 Senate: Referred to Committee on Education and Health

Notes: Position: Support

**HB 1099 Employment discrimination; expands circumstances creating an individual cause of action.**

Patron: Herring (by request)

Summary as introduced:

Employment discrimination; liability. Expands the circumstances creating an individual cause of action regarding employment discrimination by employers with more than five but fewer than 15 employees. Currently, discharging an employee on the basis of race, national origin, sex, and other status is actionable; the measure adds that the failure or refusal to hire or other discrimination against an individual on such a basis is actionable, and prohibits discrimination based on sexual orientation. Currently, discrimination against employees 40 years old or older is actionable if the employer has fewer than 15 employees; this measure increases the maximum to 20 employees. The measure adds that demonstrated compliance by an employer with any federal law or regulation is an affirmative defense to any claim. Remedies for cases involving violations other than those involving discharging employees are expanded to include injunctions and other equitable relief.

02/14/12 House: Left in General Laws

Notes: Position: Support

**HJ 3 Constitutional amendment; taking or damaging of private property for public use (second reference).**

Patrons: Bell, Robert B., Byron, Cole, Head, Helsel, Hodges, Landes, O'Bannon, Ramadan, Scott, E.T., Ware, R.L., Webert and Wilt

Summary as introduced:

Constitutional amendment (second resolution); taking or damaging of private property; public use. Revises the prohibition on the enactment by the General Assembly of laws whereby private property may be taken or damaged. An existing provision authorizing the General Assembly to define what constitutes a public use is removed. The proposed amendment provides that private property can be taken or damaged only for a public use, only with just compensation to the owner, and only so much taken as is necessary for the public use. Just compensation must equal or exceed the value of the property taken, lost profits and lost access, and damages to the residue caused by the taking. A public service company, public service corporation, or railroad exercises the power of eminent domain for public use when such exercise is for the authorized provision of utility, common carrier, or railroad services. In all other cases, a taking or damaging of private property is not for public use if the primary use is for private gain, private benefit, private enterprise, increasing jobs, increasing tax revenue, or economic development, except for the elimination of a public nuisance existing on the property. The condemnor bears the burden of proving that the use is public, without a presumption that it is.

02/24/12 Senate: Passed by for the day

Notes: Position: Oppose

**HJ 146 High capacity transit; Transportation Board to make priority for funding by State.**

Patrons: Herring and Kory

Summary as introduced:

High capacity transit. Requests the Commonwealth Transportation Board to make high capacity transit a priority for funding by the Commonwealth.

02/20/12 House: Left in Appropriations

Notes: Position: Support

**SB 240 Constitutional amendment; taking or damaging of private property for public use (voter referendum).**

Patrons: Obenshain; Delegate: Joannou

Summary as passed Senate:

Constitutional amendment (voter referendum); taking or damaging of private property; public use. Provides for a referendum at the November 6, 2012, election to approve or reject an amendment that revises the prohibition on the enactment by the General Assembly of laws whereby private property may be taken or damaged without just compensation. The bill is identical to HB 5.

02/16/12 House: Assigned P & E sub: Constitutional Amendments Subcommittee

Notes: Position: Oppose

**SB 257 School calendar; local school boards responsible for setting and determining opening of school year.**

Patron: Ebbin

Summary as introduced:

School calendar. Makes local school boards responsible for setting the school calendar and determining the opening of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of Education may grant waivers of this requirement. This bill was incorporated into SB 457 (Marsden).

01/26/12 Senate: Incorporated by Education and Health (SB457-Marsden) (15-Y 0-N)

Notes: Position: Support

**SB 261 Virginia Preschool Initiative Local Grant Program; created.**

Patron: Ebbin

Summary as introduced:

Virginia Preschool Initiative Local Grant Program. Creates a grant program to be administered by the Virginia Department of Education to improve training for preschool educators; create, outfit, or expand preschool classrooms; implement the Virginia Quality Rating and Improvement System; ensure the availability of preschool education for the children of veterans; and create innovative early childhood programs for rural communities where access to services is difficult. The grant program shall be funded by the unused moneys allocated by the General Assembly towards the Virginia Preschool Initiative, which requires a local match in order for such funds to be utilized. Grants shall be awarded pursuant to a competitive request for proposals process designed to ensure that all service providers in the Commonwealth, regardless of size or geographic location, are afforded the opportunity to apply for funds.

02/17/12 House: Assigned App. sub: Elementary & Secondary Education

Notes: Position: Support

**SB 263 Public employment; prohibits discrimination based on sexual orientation, race, etc.**

Patrons: Ebbin, McEachin and Herring

Summary as introduced:

Public employment; nondiscrimination. Prohibits discrimination in public employment based on sexual orientation. The bill defines "sexual orientation" as a person's actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression. The bill expressly provides that "sexual orientation" shall not include any person's attraction towards persons with whom sexual conduct would be illegal due to the age of the parties. The bill contains technical amendments. The bill also codifies existing prohibitions against discrimination in public employment based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran. The bill contains technical amendments.

01/30/12 Senate: Passed by for the day in General Laws and Technology (8-Y 7-N)

Notes: Position: Support

**SB 456 School calendar; allows local school boards to determine opening date.**

Patron: Vogel

Summary as introduced:

School calendar; allows local school boards to set. Allows local school boards to determine the opening date of the school year. This bill has been incorporated into SB 457 (Marsden).

01/26/12 Senate: Incorporated by Education and Health (SB457-Marsden) (15-Y 0-N)

Notes: Position: Support

**SB 457 School calendar; local school boards responsible for setting and determining opening of school year.**

Patrons: Marsden, Ebbin, Vogel and Petersen

Summary as introduced:

School calendar. Makes local school boards responsible for setting the school calendar and determining the opening of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of Education may grant waivers of this requirement. This bill incorporates SB 257 (Ebbin) and SB 456 (Vogel).

01/26/12 Senate: Passed by indefinitely in Education and Health (9-Y 6-N)

Notes: Position: Support

**SB 493 Electric and natural gas utilities; energy efficiency programs.**

Patrons: Watkins and Puckett

Summary as passed Senate:

Utility energy efficiency programs. Provides that an energy efficiency program proposed by an electric utility is in the public interest if among other factors, the net present value of the benefits exceeds the net present value of the costs as determined by the Commission upon consideration of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. The Commission's determination shall include an analysis of all four tests, and a program or portfolio of programs shall not be rejected based solely on the results of a

single test. An electric utility's energy efficiency program may be deemed to be in the public interest if it provides measurable and verifiable energy savings to low-income customers or elderly customers. The current standard for what constitutes a cost-effective conservation and energy efficiency program conducted by a natural gas utility is revised to conform to these new provisions for electric utilities. Finally, the measure expands the definition of "energy efficiency program" with regard to electric utilities to include customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices.

02/24/12 House: Passed House (96-Y 1-N 1-A)

Notes: Position: Support

**SJ 3 Constitutional amendment; taking or damaging of private property for public use (second reference).**

Patrons: Obenshain, Deeds, McDougle, Black, Carrico, Garrett, McWaters, Newman, Reeves, Ruff, Smith, Stanley and Stuart; Delegate: Cole

Summary as passed Senate:

Constitutional amendment (second resolution); taking or damaging of private property; public use. Revises the prohibition on the enactment by the General Assembly of laws whereby private property may be taken or damaged. An existing provision authorizing the General Assembly to define what constitutes a public use is removed. The proposed amendment provides that private property can be taken or damaged only for a public use, only with just compensation to the owner, and only so much taken as is necessary for the public use. Just compensation must equal or exceed the value of the property taken, lost profits and lost access, and damages to the residue caused by the taking. A public service company, public service corporation, or railroad exercises the power of eminent domain for public use when such exercise is for the authorized provision of utility, common carrier, or railroad services. In all other cases, a taking or damaging of private property is not for public use if the primary use is for private gain, private benefit, private enterprise, increasing jobs, increasing tax revenue, or economic development, except for the elimination of a public nuisance existing on the property. The condemnor bears the burden of proving that the use is public, without a presumption that it is. The Resolution incorporates SJR 67 and SJR 117.

02/16/12 House: Assigned P & E sub: Constitutional Amendments Subcommittee

Notes: Position: Oppose

**SJ 52 High capacity transit; Transportation Board to make priority for funding by State.**

Patron: Ebbin

Summary as introduced:

High capacity transit. Requests the Commonwealth Transportation Board to make high capacity transit a priority for funding by the Commonwealth.

02/03/12 Senate: Passed by indefinitely in Rules