

**REVIEW OF THE 2007 SESSION
OF THE VIRGINIA GENERAL ASSEMBLY**

for

**Virginia Society of the American Institute of Architects,
The American Council of Engineering Companies/Virginia, and
The Virginia Society of Professional Engineers**

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Bills That Passed

HB 1678 Retail Sales and Use Tax; exemptions include energy-efficient products.

Sales tax exemption; energy-efficient products. Provides a sales tax exemption for purchases of certain energy-efficient products with a sales price of \$2,500 or less made during the first Friday, Saturday, and Sunday in October of each year. The bill also authorizes dealers to absorb the sales and use tax on all other items sold during the same time period and thereby relieve the purchasers of the obligation to pay such tax. Dealers who absorb such taxes are liable for payment of the same to the Tax Commissioner. The provisions of this bill will expire on July 1, 2012.

Patrons: Cosgrove, Caputo, Cline, Englin, Hugo, Iaquinto, Moran, Peace, Saxman, Shannon, Toscano and Watts

HB 1707 Public school contract employees; requires school boards to obtain data on convictions of crimes.

Local school boards; contractors. Provides that as a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours, the school board must require the contractor to provide certification that all employees who will have direct contact with students have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. The bill also provides that the requirement be waived in emergency situations when it is reasonably anticipated that the contractor or his employees will have no direct contact with students. This bill is identical to SB 1346 (Newman).

Patrons: Lingamfelter, Athey, Cole, Iaquinto, Jones, S.C., Lohr, Rust and Sherwood
The Joint Legislative Committee — comprising members of the VSAIA, the Virginia Society of Professional Engineers and the American Council of Engineering Companies/Virginia — sponsored this bill, which clarified a law passed last year.

HB 1801 Architects, Professional Engineers, etc., Bd of; cease and desist orders for unlicensed activity.

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; powers; cease and desist orders; civil penalty. Authorizes the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects to issue cease and desist orders for unlicensed activity. The bill provides for a right of appeal of the Board's issuance of such an order and specifies the civil penalty.

Patron: Cosgrove

The JLC sponsored this bill to provide the regulatory board with authority to penalize those who practice or offer to practice without the proper license or use a title without authorization.

HB 2010 Affordable housing; localities that adopt program of bonus density will be allowed certain incentives.

Affordable dwelling unit ordinances. Makes numerous changes to the affordable housing law including authorizing establishment of housing trust funds and allowing acceptance of cash in lieu of affordable units. This bill was incorporated into HB2010. This bill incorporates HB2451 and HB2910.

Patron: Suit

The JLC followed this bill.

HB 2356 Fire Marshal, Office of; transfers enforcement of Fire Prevention Code thereto.

Office of the State Fire Marshal. Transfers the enforcement of the Statewide Fire Prevention Code from the Department of Housing and Community Development to the Department of Fire Programs under the Fire Services Board. The bill also provides for the State Fire Marshal to be employed by the Executive Director of the Department of Fire Programs rather than by the Director of Housing and Community Development. The bill is identical to Senate Bill 1132.

Patrons: Cosgrove, Cline, Landes, Poisson and Rust

The JLC opposed this bill because it places the enforcement of the fire code and the enforcement of the building code under separate boards. It was amended to retain the development of the codes within one board — the Board for Housing and Community Development — but that may be changed in subsequent General Assembly sessions.

HB 2498 Income tax, state; residential tax credit for increased accessibility and visitability.

Residential tax credit; increased accessibility and visitability for the disabled.

Requires the Department of Housing and Community Development to develop guidelines establishing the eligibility requirements for the tax credit in § 58.1-339.7. Changes the name of the disabled tax credit to the "Livable Home Tax Credit" and extends it to any taxpayer who purchases a new residence. This bill is a recommendation of the Virginia Disability Commission.

Patron: Orrock

The JLC followed this bill

HB 3011 Bonding requirements; facilities dedicated for public use.

Bonding requirements; facilities dedicated for public use. Provides that a governing body of a locality shall not require a developer to furnish a bond for the estimated cost of construction of facilities to be dedicated for public use until construction plans are submitted for the section in which such facilities are to be located.

Patron: Hull

SB 756 Public-Private Partnership Advisory Commission; created.

Public-Private Partnership Advisory Commission. Establishes the Public-Private Partnership Advisory Commission to review and advise responsible public entities that are agencies or institutions of the Commonwealth on detailed proposals for qualifying projects under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-5575.1et seq.). The bill also requires all responsible public entities to adopt guidelines to guide the selection of projects under the Public-Private Education Facilities and Infrastructure Act containing certain specified provisions. For responsible public entities that are not agencies or institutions of the Commonwealth, the guidelines must include a mechanism for the appropriating body to review the proposed comprehensive agreement prior to execution under certain circumstances.

Patron: Stosch

SB 791 Residential tax credit; to improve accessibility and visitability for new or existing residence.

Residential tax credit; increased accessibility and visitability for the disabled.

Requires the Department of Housing and Community Development to develop guidelines establishing the eligibility requirements for the tax credit in section 58.1-339.7. Changes

the name of the disabled tax credit to the "Livable Home Tax Credit" and extends it to any taxpayer who purchases a new residence. The bill would cap the tax credit at \$500 for the purchase of a new residence or for the retrofitting of an existing residence. This bill is a recommendation of the Virginia Disability Commission.

Patron: Puller

The JLC followed this bill

SB 869 Development rights; county and adjacent city may enter voluntarily into an agreement.

Transfer of development rights. Provides that any county and an adjacent city may enter voluntarily into an agreement to permit the county to designate eligible receiving areas in the city if the governing body of the city has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The bill also expands the definition of "sending property." This bill is identical to HB 2503.

Patron: Watkins

The JLC followed this bill

SB 955 Affordable housing; localities that adopt bonus density in exchange therefore allowed incentives.

Affordable housing dwelling unit ordinances. Provides that localities that adopt a program of bonus density in exchange for affordable housing will be allowed certain incentives and that the program may also apply to certain elevator structures above four stories except for localities in Planning District Eight. Also, such program may include establishment of a local housing fund to help the locality achieve its affordable housing goals. This bill is identical to HB2010. This bill incorporates SB1131.

Patron: Quayle

The JLC followed this bill

SB 1132 Fire Marshal, Office of; transfers enforcement of Fire Prevention Code thereto.

Office of the State Fire Marshal. Transfers the enforcement of the Statewide Fire Prevention Code from the Department of Housing and Community Development to the Department of Fire Programs under the Fire Services Board. The bill also provides for the State Fire Marshall to be employed by the Director of the Department of Fire Programs rather than the Director of the Department of Housing and Community Development. Under the bill, the promulgation of the Statewide Fire Prevention Code remains with the Board for Housing and Community Development. The bill has a delayed effective date of July 1, 2008. This bill is identical to HB2356.

Patrons: Deeds and Devolites Davis
The JLC opposed this bill. (See HB 2356.)

SB 1246 Charter; Town of Leesburg.

Charter; Town of Leesburg. Provides that the town may develop an affordable housing program with Loudoun County; grants the town authority to adopt certain codes of technical regulations available to counties by reference; and, allows the town to create architectural control districts and develop design standards for such districts.

Patron: Herring
The JLC successfully sought an amendment to this bill that clarified the town must use the VUSBC as its building code.

SB 1279 Higher Educational Institutions; defines continuing or professional education.

Higher education; private and out-of-state institutions of higher education. Defines "continuing or professional education." This bill is identical to HB 2154.

Patron: Whipple

SB 1342 Higher educational institutions; operational authority therefore in areas of procurement, etc.

Public institutions of higher education; operational authority. Provides operational authority for public institutions of higher education pursuant to the Restructuring Act of 2005 in one of the following areas: (i) information technology, or (ii) procurement. The institution would have the choice of selecting the area of operational authority. The additional operational authority would also have to be provided in the appropriation act.

Patron: Houck

Bills That Failed

HB 1620 Retail Sales and Use Tax; exemptions include certain contractors.

Sales and use tax; exemption for certain contractors. Exempts from paying the sales and use tax any person who contracts on or after July 1, 2006, to perform services for and provide 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: Frederick

HB 1745 Residential development; impact fee assessments.

Residential development impact fee assessments; adequate public facilities. Allows localities to adopt ordinances for the assessment of impact fees and acceptance of cash proffers when certain public facilities are inadequate to support a proposed residential development. If the proposed development is for senior residents only, then impact fees may be assessed and cash proffers may be accepted in relation to the adequacy of public safety, or public sewer or water facilities. For all other proposed residential developments, the impact fees may be assessed, and the cash proffers may be accepted, in relation to the adequacy of education, transportation, or public water or sewer needs. Such fees and proffers shall be a pro rata share of the costs of reasonable and necessary capital improvements attributable to the proposed development. Prior to any impact fee assessment or acceptance of cash proffers, the locality must identify the particular public facility needs in its comprehensive plan, and must have in place a capital improvement program that provides a reasonable basis for determining the extent or level of inadequacy of such facilities in the area of the proposed development. If the locality does not apply impact fees or cash proffers paid by a developer to the capital project that served as the basis for such assessment or acceptance within six years of collection, then the developer may seek a writ of mandamus to compel the locality to do so. Any impact fee ordinance and any cash proffer ordinance shall expire after six years, and may then be adopted for consecutive six-year periods.

Patron: Marshall, R.G.

HB 1865 Water resources; locality to deny or delay subdivision approval of building permit if inadequate.

Adequate water resources. Permits localities to adopt reasonable provisions allowing the locality to deny or delay subdivision approval or issuance of a building permit or deny a rezoning request if the locality demonstrates that public facilities related to the

provision of water are inadequate to support the services that will be required by a proposed subdivision or zoning classification. The locality shall base such determination on its water supply plan as approved by the Department of Environmental Quality and on-demand projections in such plan.

Patron: Wittman

The JLC followed this bill.

HB 1878 Income tax, state; energy-efficient equipment deduction.

Income tax; energy-efficient equipment deduction. Provides an income tax deduction for taxable years beginning on or after January 1, 2007, to individuals who purchase energy-efficient equipment used for heating, cooling, and providing electricity to their residences. The amount of the deduction equals 50% of such equipment expenditures, but not more than \$7,500 total.

Patron: Caputo

The JLC followed this bill.

HB 1917 Public Procurement Act; require disclosure of location where services are to be performed.

Virginia Public Procurement Act; required disclosure of the location where services are to be performed under the contract. Requires prospective vendors for state service contracts to disclose the location where services will be performed under the contract, including any subcontracts, and whether any services under the contract, including any subcontracts, are anticipated to be performed outside of the United States. In addition, the bill provides that the state public body may consider the disclosure of the prospective vendor and the economic impact to the Commonwealth and its citizens in awarding the contract or evaluating the bid or offer. Under the bill, if the vendor subsequently changes the location where the services are performed to a location outside of the United States, then the vendor will be in breach of the contract unless the public body makes a written determination that circumstances required the change in location or termination of the contract would not be in the best interest of the Commonwealth. The bill also provides for the Department of General Services to submit to the Governor and General Assembly by September 30 of each year a report detailing the impact of outsourcing services on the procurement cost of the Commonwealth.

Patrons: Ward and Armstrong

This bill was aimed at identifying firms who subcontracted work to off-shore firms.

HB 2182 Architects, Professional Engineers, Land Surveyors, etc., Board for; licensure exemption.

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; exemption from licensure. Provides an exemption from licensure as an architect or professional engineer for the design of on-site treatment works consisting solely of an anaerobic septic tank treatment system with gravity conveyance to a gravity-distributed subsurface drain field.

Patron: Saxman

HB 2305 Historic areas and sites; adds to provisions related to preservation of historic buildings, etc.

Preservation of historic areas and sites. Adds historic areas and sites to the existing provisions related to preservation of historic buildings and structures.

Patron: McQuigg
The JLC followed this bill.

HB 2306 Higher educational institutions; operational authority for areas of information technology, etc.

Public institutions of higher education; operational authority. Provides operational authority for public institutions of higher education in the areas of information technology and procurement pursuant to the Restructuring Act of 2005.

Patrons: Callahan, Cosgrove, Nutter and Rust

HB 2457 Fire Marshal, Office of; transfers enforcement of Fire Prevention Code thereto.

Office of the State Fire Marshal. Transfers the enforcement of the Statewide Fire Prevention Code from the Department of Housing and Community Development to the Department of Fire Programs under the Fire Services Board. The bill also establishes the Office of the State Fire Marshal and provides for the State Fire Marshal to be appointed by the Secretary of Public Safety rather than by the Director of Housing and Community Development.

Patron: Cline
The JLC successfully opposed this bill. (See HB 2356.)

HB 2554 Uniform Statewide Building Code; emergency communication equipment.

Statewide Building Code; emergency communication equipment. Requires all new commercial, industrial, institutional, and multifamily buildings to be constructed or equipped so that emergency public safety personnel may send and receive emergency communications from within them. Currently, the Board of Housing and Community Development is directed to promulgate regulations as part of the Statewide Building Code to require that commercial, industrial, and multifamily structures be so designed or equipped.

Patrons: Ebbin, Brink, Dance and Eisenberg

The JLC successfully opposed this bill. Architects are working with the Board of Housing and Community Development on the regulations.

HB 2555 Green Buildings Act; created, report.

Department of General Services; Green Buildings Act. Requires all major facility projects of state agencies to be constructed to meet the United States Green Building Council Leadership in Energy and Environment Design (LEED) silver certification standard, unless granted an exemption by the Director of the Department of General Services. Such projects will not be required to obtain official LEED certification. Application of the requirement will be phased in over the next three years based on the square footage of the project. The provisions of the bill do not apply to construction projects of public school districts.

Patrons: Ebbin, Moran, Amundson, Brink, Bulova, Marsden, Marshall, D.W., Phillips, Plum, Scott, J.M., Sickles, Toscano, Tyler and Ware, O.; Senator: Edwards

The VSAIA supported this bill.

HB 2581 Implied new home warranty; provides that limitations for actions for breach thereof.

Implied new home warranty. Provides that the limitations period for actions for breach of an implied warranty on a new home is tolled for six months upon sending notice of the breach to the vendor. The purpose of this bill is to conform the implied warranty provision for new homes with § 55-79.79 which covers condominiums and already contains the six-month tolling period.

Patron: Janis

HB 2582 Public Procurement Act; modification of contracts.

Virginia Public Procurement Act; modification of contracts. Clarifies that public bodies can include contract provisions allowing contract modifications for differing conditions or price escalations or de-escalations.

Patron: Janis

HB 2656 LEED Silver standard; established by U. S. Green Building Council.

Department of General Services; capital outlay projects; green buildings. Requires all departments, agencies, and institutions of the Commonwealth to ensure that the design and construction of state-owned buildings comply with the LEED Silver standard established by the United States Green Building Council unless an exemption is granted by the Division of Engineering and Buildings of the Department of General Services. The bill provides for an appeal process to the Division that shall include a requirement that a department, agency, or institution demonstrate that the project requirements would result in a cost that is at least 15 percent higher than the desired design cost if the project were built to the LEED Silver Standard.

Patrons: Marsden and Sickles

The JLC sought amendments to this bill to add detail to evaluation process

HB 2950 Architects, professional engineers, land surveyors, and landscape architects; definitions.

Architects, professional engineers, land surveyors, and landscape architects; definitions. Adds definitions for the terms "private entity," "public entity," and "utility."

Patron: Cosgrove

HB 3065 Public Procurement Act; expands form of bid, payment, and performance security.

Virginia Public Procurement Act; bid, payment, and performance bonds; alternate forms of security. Expands the forms of alternate bid, payment, and performance security that may be used to include a bond provided or executed by an individual surety provided that (i) the person acting as the individual surety transacts business only through an insurance agency licensed by the Bureau of Insurance of the State Corporation Commission; (ii) the person acting as the individual surety provides an affidavit of individual surety in a form acceptable to the Department of General Services; and (iii) pledges certain assets in the amount equal to 100 percent of the contract value for the

total penal amount of the performance and payment bonds or the penal amount of the bid as required by the bid bond.

Patron: Marshall, R.G.

SB 861 Public Procurement Act; required disclosure of location where services are performed under contract.

Virginia Public Procurement Act; required disclosure of the location where services are to be performed under the contract. Requires prospective vendors for state service contracts to disclose the location where services will be performed under the contract, including any subcontracts, and whether any services under the contract, including any subcontracts, are anticipated to be performed outside of the United States. In addition, the bill provides that the state public body may consider the disclosure of the prospective vendor and the economic impact to the Commonwealth and its citizens in awarding the contract or evaluating the bid or offer. Under the bill, if the vendor subsequently changes the location where the services are performed to a location outside of the United States, then the vendor will be in breach of the contract unless the public body makes a written determination that circumstances required the change in location or termination of the contract would not be in the best interest of the Commonwealth. The bill also provides for the Department of General Services to submit to the Governor and General Assembly by September 30 of each year a report detailing the impact of outsourcing services on the procurement cost of the Commonwealth.

Patrons: Reynolds and Puckett

The JLC successfully opposed this bill. (See HB 1917.)

SB 1101 Hampton Roads Toll Facility Authority; created.

Hampton Roads Toll Facility Authority. Establishes the Hampton Roads Toll Facility Authority and transfers from VDOT to the Authority control of and responsibility for eight specifically named facilities in Hampton Roads and allows the Authority to impose and collect tolls for use of those facilities.

Patron: Williams

SB 1155 Interstate 81 Regional Transportation Authorities; created.

Interstate 81 regional transportation authorities; transportation funding. Allows the governing bodies of two or more contiguous counties or cities along the Interstate 81 corridor or three or more counties or cities in the same construction district along the Interstate 81 corridor to form a regional transportation authority. Such an authority shall prepare a regional transportation plan and may construct or acquire transportation

facilities specified in such a plan. An authority would also be responsible for long-range transportation planning for regional transportation projects. An authority may impose and collect tolls on facilities within its confines, subject to the approval of the Commonwealth Transportation Board, and cities or counties within the authority may, by ordinance, levy and impose an additional local sales and use tax, provided that all cities or counties within the authority adopt by ordinance the additional tax. An authority shall report annually on the allocation and expenditure of funds, including the use of funds to reduce congestion and improve air quality within the confines of the authority.

Patron: Potts

SB 1273 Green Buildings Act; created, report.

Department of General Services; Green Buildings Act. Requires all major facility projects of state agencies to be constructed to meet United States Green Building Council Leadership in Energy and Environment Design (LEED) certification standards, unless granted an exemption by the Director of the Department of General Services. Such projects will not be required to obtain official LEED certification. Application of the requirement will be phased in over the next three years based on the square footage of the project. The provisions of the bill do not apply to construction projects of public school districts.

Patron: Whipple

The VSAIA followed this bill.

SB 1275 Sustainable Energy, Energy Efficiency, and Energy Conservation Fund; created, report.

Renewable energy and energy efficiency program requirements. Requires that by the period June 1, 2020, through May 31, 2021, and in subsequent years, 12% of the electric energy sold by each supplier to retail customers in the Commonwealth be generated from renewable generation energy sources, and that each supplier achieve reductions in the consumption of electric energy by its retail customers, through the supplier's implementation of energy efficiency programs, in an amount equal to 5% of the amount of electric energy consumed by its retail customers in 2006. The requirements are phased in over a period commencing June 1, 2008. The 12% requirement for renewable generation energy sources is comprised of three categories of renewable energy sources, each of which has separate percentage requirements. Generators of renewable energy receive renewable energy credits for power generated through eligible renewable sources or conserved through energy efficiency programs. Suppliers who do not comply with the minimum percentage requirements are required to make alternative compliance payments into a new Virginia Sustainable Energy, Energy Efficiency, and Energy Conservation Fund. Distributors are authorized to recover incremental costs of compliance incurred during the capped rate period under the procedure for recovery of the costs of purchased power. Electric cooperatives and municipal electric utilities are exempted from the measure.

Patron: Whipple

The VSAIA followed this bill.

SB 1329 Subdivision ordinance; provisions to adopt guidelines for design/construction of public facilities.

Design and construction of public facilities. Allows localities to provide for adoption of guidelines for the design and construction of public facilities, public infrastructure, and other structures within areas of proposed development or rezoning.

Patron: Williams