

**Agenda and Documents  
Legislative Committee  
February 2, 2018**

**I. Priority Principles for Reviewing Legislation**

1. Adequately fund K-12 education.
2. Support dedicated funding and governance reforms for Washington Metrorail, in order to ensure the success of this critical transit system.
3. The Commonwealth should continue and build upon the successful enactment of significant, new transportation revenues by the 2013 General Assembly.
4. Restore the funding partnership between the state and localities through adequate state funding.
5. Preserve local government authority, particularly in taxation and land use; allow greater flexibility in the administration of government.

**II. Specific Issues**

- WMATA and Transit Fiscal Cliff
- WMATA Principles and NVTC Resolution
- Medicaid Expansion

\*\*\*\*\*

**III. Specific Legislation**

- New Bills—2018 General Assembly
- Fairfax County Legislative Summary

**IV. Legislation Provided for Discussion**

\*\*\*\*\*

**V. Legislation Requiring Further Review**

**VI. “Watch List”/May Have State Revenue/Policy Implications**

**VII. Legislation Provided for Information**

**VIII. Other Items**

### III. Specific Legislation

#### **New Bills – 2018 GA**

**HB 220** (Morefield) (HCCT) authorizes a locality to establish, conduct, and regulate a system of boating, canoeing, kayaking, or tubing activities on waterways and to exercise certain related powers. The bill releases from certain civil liability a locality that establishes such a system or a system of hiking, biking, or horseback riding trails, or the owner of any property leased or licensed for such uses, in the absence of gross negligence or willful misconduct. Recommend amend to include the Park Authority. (18103058D)

**SB 371** (Chafin) (Reported from SLG) authorizes a locality to establish, conduct, and regulate public boating, canoeing, kayaking, and tubing activities on property adjacent to public waterways and to set apart for such use any land or buildings owned or leased by it and obtain licenses or permits for such use on land not owned or leased by it. The bill also exempts such localities, and the owners of property leased or licensed for such use, from liability for injuries to a person or his property on systems of trails for hiking, biking, and horseback riding and from boating, canoeing, kayaking, or tubing activities on property adjacent to public waterways in the absence of gross negligence or willful misconduct. Current law exempts such localities, and the owners of property leased or licensed for such use, from liability only for injuries to a person or property on systems of trails used for all-terrain vehicles or off-road motorcycles in the absence of gross negligence or willful misconduct. Recommend amend to include the Park Authority. (18100725D)

**HB 1082** (Yancey) (HAG) prohibits the Department of Environmental Quality, the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board from adopting any environmental rule, regulation, or standard that is inconsistent with or exceeds the requirements of any relevant and duly adopted federal environmental statute, regulation, standard, criterion, or guidance document. Recommend oppose. (18102000D)

#### **Building Code Records**

**SB 921** (Ebbin) (SGL) provides that the exemption from disclosure of information contained in engineering and construction drawings and plans for any single-family residential dwelling submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) is limited to information that includes a depiction of the interior of a structure. The bill also provides that nothing shall be construed to exempt from disclosure or deny public access to any engineering and construction drawings and plans for any single-family residential dwelling that (i) depict only the exterior of the single-family residential dwelling or (ii) are the subject of an appeal to the Board of Zoning Appeals, the Board of Building Code Appeals, or any other administrative board. Recommend amend to conform with HB 683 (Pogge). (18104762D)

**HB 683** (Pogge) (Reported from HGL) clarifies that while information contained in engineering and construction drawings and plans for any single-family residential dwelling submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) shall not be subject to disclosure to the public under the

Virginia Freedom of Information Act (§ 2.2-3700 et seq.), such information shall not be deemed confidential. Recommend support. (18102130D)

### Courts

**HB 484** (Bell, Robert B.) (HCT) provides that for any offense that occurs on or after July 1, 2018, if restitution is ordered at the time of sentencing, the court shall place the defendant on an indefinite term of probation until all ordered restitution is paid in full. The bill requires that a probation agency ordered to monitor the restitution payments of a defendant placed on supervised probation notify the court and the attorney for the Commonwealth of the amount of unsatisfied restitution, if any, 30 days prior to the defendant's release from supervision. The bill also requires that a court schedule a hearing within 90 days of the date restitution was to be paid in full if any restitution remains unsatisfied and no probation agency was ordered to monitor the defendant's payments. The bill also establishes a mechanism for releasing a defendant from an indefinite term of probation even though all ordered restitution has not been paid in full. Recommend monitor. (18102534D)

### Health

**HB 192** (Yancey) (HHWI) directs the State Department of Health (the Department) to adopt regulations regarding the use of gray water and rainwater. The regulations shall provide standards for the use of rainwater harvesting systems. The bill also directs the Department to consider recognizing rainwater as an independent source of fresh water. Recommend monitor. (18106324D)

**HB 888** (Orrock) (HHWI) directs the Department of Health to take steps to eliminate evaluation and design services for onsite sewage systems and private wells provided by the Department. The bill provides specific requirements and a timeline for such elimination. Recommend oppose. (18101594D-E)

### Human Services

**HB 1026** (Adams, Les. R) (HHWI) provides that all written findings and actions of a local department of social services or its director regarding adult protective services investigations are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act. Recommend monitor. (18101587D)

**HB 1235** (Hugo) (HHWI) requires local departments of social services, when responding to a report or complaint of suspected child abuse or neglect by conducting an investigation, to verify the physical and legal custody arrangements for the child. Recommend monitor. (18103281D)

**SB 44** (Favola) (Reported from SFIN) creates the Kinship Guardianship Assistance program (the program) to facilitate child placements with relatives and ensure permanency for children for whom adoption or being returned home are not appropriate permanency options. The bill sets forth eligibility criteria for the program, payment allowances to kinship guardians, and requirements for

kinship guardianship assistance agreements. The bill also requires the Board of Social Services to promulgate regulations for the program. Recommend support. (18100496D)

### Land Use

**HB 1595** (Wilt) (HCCT)/**SB 972** (Obenshain) (SLG) prohibits an owner of real property who has an occupancy permit as of January 1, 2018, from being required to retrofit existing landscape cover materials, or from continuing to use, supplement, or refurbish existing landscape cover materials on their property. Recommend oppose. (18105605D, 18105703D)

**SB 993** (Reeves) (SLG) reduces from 60 days to 45 days the time within which a local planning commission shall act on a proposed plat, site plan, or plan of development after it has been officially submitted for approval. The bill prohibits a local planning commission from delaying the official submission of any proposed plat, site plan, or plan of development by requiring presubmission conferences, meetings, or reviews. The bill also reduces from 45 days to 30 days of receipt of the plat the time within which any state agency or public authority making a review of a plat shall complete its review upon first submission or for any proposed plat that has previously been disapproved. The bill eliminates exemptions (i) for deficiencies caused by changes, errors, or omissions occurring in the applicant's plat, site plan, or plan of development filings after the initial submission of such plat, site plan, or plan of development and (ii) from the review and approval of construction plans. Recommend oppose. (18105308D)

**SB 582** (Hanger) (SACNR) increases the threshold for the substitution of real property when lands are converted or diverted from open-space land use, requiring the substitute land to have "substantially" greater value as permanent open-space land than the land being converted or diverted. The bill establishes several requirements that an applicant for such conversion or diversion, such as an electric utility or a pipeline company, shall meet, including the requirements that it demonstrate the essentiality of its project, show that no feasible alternative exists, pay for appraisals conducted by a certified general real estate appraiser, and explain why, if the substitute land is not adjacent to the land to be converted or diverted, adjacent land could not be acquired. The bill also requires the creation of a stewardship fund for the substitute land. Recommend amend to exempt localities and park authorities from requirement to create separate maintenance fund for open-space land of the locality or park authority. (18104710D-E)

### Opioids

**HB 184** (Hayes) (HHWI) authorizes a pharmacist to dispense up to a five-day supply of a Schedule VI drug to an individual who has been displaced from his residence by a natural or man-made disaster; has had his supply of the drug lost, destroyed, or otherwise rendered unusable as a consequence of the disaster; and is unable to tell the pharmacist the identity of the prescriber or his regular pharmacist or pharmacy. The bill also requires the individual to present evidence sufficient to establish, among other things, that the individual had been in lawful possession of the drug pursuant to a prescription provided to another pharmacist and that his health would be in danger without the benefits of the drug. Before prescribing the drug, the pharmacist is required to determine with a reasonable degree of certainty that the requested drug and dosage level are consistent with the drug and its dosage level that had been prescribed to the individual at the time

of his displacement from his residence. During the period for which the drug has been dispensed, the pharmacist is required to diligently attempt to ascertain the identity of the prescriber and the identity of the pharmacist or pharmacy in possession of the prescriber's prescription. Upon obtaining such information, the pharmacist is required to take such additional reasonable action as will permit the individual to obtain a new or renewal prescription and resume obtaining the drug pursuant to his prescription. Recommend monitor. (18103616D)

**HB 501** (Hodges) (HHWI) provides that the Board of Health, in consultation with the Board of Pharmacy, shall promulgate regulations requiring a hospice program to establish a process for mitigating the risk of diversion of drugs dispensed to a hospice patient residing at home and for disposition of any unneeded dispensed drugs by an employee of the hospice program in a manner that is witnessed by the patient, patient's family member, or another employee of the hospice program and documented. Recommend support. (18105770D-H1)

**HB 793** (Robinson) (HHWI) eliminates the requirement for a practice agreement with a patient care team physician for nurse practitioners who are licensed by the Boards of Medicine and Nursing and have completed at least 1,040 hours of clinical experience as a licensed, certified nurse practitioner. The bill replaces the term "patient care team physician" with the term "collaborating provider" and allows a nurse practitioner who is exempt from the requirement for a practice agreement to enter into a practice agreement to provide collaboration and consultation to a nurse practitioner who is not exempt from the requirement for a practice agreement. The bill establishes title protection for advanced practice registered nurses, nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and clinical nurse specialists. The bill contains technical amendments. Recommend amend to increase hours of clinical experience to two years. (18106474D)

#### *Prescription Monitoring Program*

**SB 632** (Dunnavant) (SEH) eliminates the surgical or invasive procedure treatment exception to the requirement that a prescriber request certain information from the Prescription Monitoring Program (PMP) when initiating a new course of treatment that includes prescribing opioids for a human patient to last more than seven days. Under current law, a prescriber is not required to request certain information from the PMP for opioid prescriptions of up to 14 days to a patient as part of treatment for a surgical or invasive procedure. The provisions of the bill will expire on July 1, 2022. Recommend support. (18101945D)

**SB 728** (Dunnavant) (SEH) requires the Director of the Department of Health Professions to annually review controlled substance prescribing and dispensing patterns. The bill requires the Director to conduct such review in consultation with an advisory panel consisting of representatives from the relevant health regulatory boards, the Department of Health, the Department of Medical Assistance Services, and the Department of Behavioral Health and Developmental Services. The bill requires the Director to make any necessary changes to the criteria for unusual patterns of prescribing and dispensing and report any findings and recommendations for best practices to the Joint Commission on Health Care by November 1 of each year. Recommend support. (18105239D-S1)

**Transportation**

**SB 307** (Cosgrove) (STRAN) directs the Department of Aviation to convene a work group to explore issues related to unmanned aircraft system activities. Recommend monitor. (18105733D-S1)

#### **IV. Legislation Provided for Discussion**

**HB 302** (Watts) (HCCT) grants counties with a population greater than 100,000 certain powers of cities and towns, including taxation, borrowing, and payments for highway maintenance. Currently, such powers are generally granted to cities and towns only. (18102516D)

##### **Asset Forfeiture**

**HB 900** (Freitas) (HCT) requires that any action for the forfeiture of property used in connection with the commission of a crime be stayed until the owner of the property or the person in whose custody such property is found has been found guilty of the crime authorizing the forfeiture, regardless of whether he has been sentenced. The bill provides that property may be forfeited even though no finding of guilt is made if (i) the forfeiture is ordered by the court pursuant to a plea agreement or (ii) the owner of the property or the person in whose custody the property is found has not submitted a written demand for the return of the property within 21 days from the date the stay terminates. (18105993D)

**SB 341** (Peake) (SCT) requires that any action for the forfeiture of property used in connection with the commission of a crime be stayed until the owner of the property or the person in whose custody such property is found has been found guilty of the crime authorizing the forfeiture, regardless of whether he has been sentenced. The bill provides that property may be forfeited even though no finding of guilt is made if (i) the forfeiture is ordered by the court pursuant to a plea agreement or (ii) the owner of the property or the person in whose custody the property is found has not submitted a written demand for the return of the property within one year from the date the property was seized. (18103145D)

##### **Education/Public Safety**

**HB 15** (Mullin) (HCT) requires a principal to first take appropriate alternative disciplinary action or determine that no such appropriate alternative disciplinary action exists before referring to the local law-enforcement agency student incidents of assault and assault and battery without bodily injury. (18101158D)

**HB 445** (Carroll Foy) (HCT) eliminates the requirement that school principals report certain enumerated acts that may constitute a misdemeanor offense to law enforcement. (18102544D)

**SB 476** (Reeves) (SEH) provides that school principals are not required to report criminal misdemeanors or status offenses to law enforcement if in the principal's discretion, based on a totality of the circumstances and consistent with Board of Education guidelines, such report is not warranted. The bill requires the Board of Education, in consultation with the Department of Juvenile Justice, the Office of the Attorney General, and any interested stakeholders, to update its Student Conduct Policy Guidelines to provide guidance for principals in exercising such discretion. (18102416D)

**Taxation**

**SB 219** (Lewis) (SPE) provides for a referendum at the November 6, 2018, election to approve or reject an amendment to allow the General Assembly to authorize the governing bodies of counties, cities, and towns to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, of improved real estate subject to recurrent flooding upon which flooding abatement, mitigation, or resiliency efforts have been undertaken. (18104027D)

**SJ 21** (Lewis) (SPE) provides that the General Assembly may authorize a county, city, or town to partially exempt any real estate subject to recurring flooding upon which flooding abatement, mitigation, or resiliency efforts have been undertaken. (18102801D)

**Transportation**

**HB 1276** (Garrett) (HTRAN)/**SB 504** (Carrico) (STRAN) authorizes the Commissioner of Highways to enroll in or withdraw from any federal pilot program or project for the collection and study of data for the review of truck weights and the impact of such vehicles on federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, or capacity challenges. (18102970D, 18103024D)