

Specific Legislation and Legislation for Discussion
Board of Supervisors Legislative Committee
February 11, 2022

Specific Legislation

Historical Positions of the Board

SUPPORT

HB 843 (Bloxom) (HAPP) provides that for award cycles, defined in the bill as the 12-month period during which the Virginia Housing and Development Authority (the Authority) awards tax credits to eligible projects, beginning on and after January 1, 2021, but before July 1, 2025, and upon approving a federal low-income housing tax credit for a qualified project pursuant to the Authority's qualified allocation plan, the Authority shall award a housing opportunity tax credit for the owner of the qualified project so long as doing so will not result in exceeding the award cycle cap, defined as the sum of (i) \$150 million, (ii) the amount, if any, by which the award cycle cap for the preceding award cycle exceeds the tax credits awarded by the Authority in that award cycle, and (iii) the amount of tax credits recaptured or otherwise disallowed in the preceding fiscal year. The bill provides that the housing opportunity tax credit award shall not be less than one-half of the aggregate amount of the federal low-income housing tax credit approved for the qualified project under the Authority's qualified allocation plan for all years of the project's credit period. The bill requires the Authority to send written notice of the award to the owner of the qualified project and provides that a housing opportunity tax credit shall be allowed for such qualified project for each year of the credit period, in an amount equal to the lesser of (a) the amount of federal low-income housing tax credit allocated or allowed by the Authority to such qualified project, except that there shall be no reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2), or (b) one-tenth of the tax credit amount stated in the award notice. Recommend support; Board has historically supported. (22103943D)

SB 47 (Locke) (Reported from SFIN) increases the aggregate annual limit on housing opportunity tax credits from \$15 million to the sum of (i) \$150 million, (ii) the amount by which the allocation for the previous year exceeds credits actually reserved in that year, and (iii) the amount of credits recaptured or disallowed for the previous year. The bill removes the credit's sunset, which under current law is January 1, 2026; however, the Virginia Housing Development Authority (the Authority), which administers the credit, would be authorized to reserve credits only for fiscal years beginning in January 1, 2021, but before January 1, 2026. The bill directs the Authority, which is the agency charged with administering the federal low-income housing tax credit (the federal credit), to reserve a housing opportunity tax credit (the state credit) for a taxpayer whenever it allocates a federal credit. The reserved state credit must be at least one-half of all federal credits allocated to the taxpayer over the 10-year period for the federal credit. However, the bill limits the amount of credits a taxpayer may claim in a single taxable year to the lesser of (a) the amount of the federal credit allocated to the taxpayer or (b) one-tenth of the reserved amount. The bill removes the Authority's power to allow credit applicants to sell credits to other taxpayers. Recommend support; Board has historically supported. (22101688D)

OPPOSE

COVID-19 Vaccines

HB 27 (Anderson) (HHWI) prohibits the State Health Commissioner and the Board of Health, the Board of Behavioral Health and Developmental Services, the Department of Health Professions and any regulatory board therein, and the Department of Social Services from requiring any person to undergo vaccination for COVID-19 and prohibits discrimination based on a person's COVID-19 vaccination status with regard to education or public employment and in numerous other contexts. Recommend oppose; Board has historically opposed. (22100819D)

HB 934 (LaRock) (HCE) prohibits an employer from requiring its employees to receive a vaccine for the prevention of COVID-19 unless such employer provides individual exemptions that allow an employee to opt out from such requirement on the basis of (i) medical reasons, including pregnancy or anticipated pregnancy; (ii) religious reasons; (iii) immunity from COVID-19; (iv) periodic testing; or (v) the use of employer-provided personal protective equipment. The bill provides requirements for an employee to claim such exemptions. The bill prohibits an employer from discrimination against an employee who claims such an exemption. The bill also provides for civil penalties not to exceed \$10,000 by an employer with fewer than 100 employees or \$50,000 by an employer with 100 or more employees for violations of the bill's requirements. Recommend oppose; Board has historically opposed. (22102764D)

Environment/Energy

HB 118 (Freitas) (HCE) repeals provisions (i) requiring the State Air Pollution Control Board to adopt regulations to reduce carbon dioxide emissions from any electricity generating unit in the Commonwealth and authorizing the Board to establish an auction program for energy allowances; (ii) prohibiting the State Corporation Commission from approving any new utility-owned generation facilities that emit carbon dioxide as a by-product of energy generation, in certain circumstances; (iii) declaring that statutory allowances for energy derived from sunlight, onshore wind, offshore wind, and storage facilities are in the public interest; and (iv) relating to the development of solar and wind generation and energy storage capacity, development of offshore wind capacity, and generation of electricity from renewable and zero carbon sources. The bill provides that planning and development activities for new nuclear generation facilities are in the public interest. Recommend oppose; Board has historically opposed. (22100091D)

HB 1267 (Wilt) (Reported from HAG) extends by five years the deadline by which the State Air Pollution Control Board implement low-emissions and zero-emissions vehicle standards and makes the requirement permissive instead of mandatory. Recommend oppose; Board has historically opposed. (22106153D-H1)

HB 1301 (Kilgore) (HAPP) repeals the Clean Energy and Community Flood Preparedness Act. Recommend oppose; Board has historically opposed. (22104929D)

Firearms

HB 26 (Anderson) (HPS) removes the authority for a locality by ordinance to prohibit the possession or carrying of firearms, ammunition, or components or any combination thereof in (i) any building, or part thereof, owned or used by such locality for governmental purposes; (ii) any public park owned or operated by the locality; (iii) any recreation or community center facility; or (iv) any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. The bill provides that any firearm received by the locality pursuant to a buy-back program shall be offered for sale by public auction or sealed bids to a person licensed as a dealer. Current law provides that any such firearm shall be destroyed by the locality unless the person surrendering the firearm requests in writing that the firearm be offered for sale. The bill also limits the authority of localities and state governmental entities to bring lawsuits against certain firearms manufacturers and others. Recommend oppose; Board has historically opposed. (22100806D)

HB 133 (Cherry) (HRUL) removes preschools and licensed child day centers that are not operated at the residence of the provider or of any of the children from the list of schools where possessing a firearm or other weapon on school property or on a school bus is prohibited. Recommend oppose; Board has historically opposed. (22102275D)

HB 509 (March) (HPS) repeals the procedure by which any attorney for the Commonwealth or law-enforcement officer may apply to a general district court, circuit court, or juvenile and domestic relations district court judge or magistrate for an emergency substantial risk order to prohibit a person who poses a substantial risk of injury to himself or others from purchasing, possessing, or transporting a firearm. The bill also removes the substantial risk order registry for the entry of orders issued. Recommend oppose; Board has historically opposed. (22101051D)

HB 1051 (Scott) (HRUL) allows a person subject to a protective order to continue to possess any firearm while in his place of residence that was possessed by such person at the time of service, provided that he is not otherwise prohibited by law from possessing a firearm. The bill removes the requirement that any person subject to a protective order must surrender his firearms within 24 hours of being served with a protective order. Recommend oppose; Board has historically opposed. (22102583D)

School Resource Officers

HB 37 (Anderson) (HED) requires each school board to enter into a collaborative agreement with the local law-enforcement agency to employ at least one school resource officer in each public middle and high school in the local school division and at least one school resource officer per five public elementary schools in the local school division, who is required to serve in each such elementary school on a rotating basis. The bill also requires each division superintendent to include on the threat assessment team established for each public elementary and secondary school in the local school division at least one school resource officer employed in the school. Recommend oppose; Board has historically opposed. (22103455D)

HB 873 (Greenhalgh) (Reported from HAPP) requires each school board to enter into a collaborative agreement with the local law-enforcement agency to employ at least one school resource officer in each public elementary and secondary school in the local school division. The bill provides that no school board shall be granted any full or partial waiver from such staffing requirements and that no school board that fails to fully comply with such staffing requirements is eligible for any grant or waiver from the Commonwealth, Board of Education, or Department of Education. The bill also requires each division superintendent to include on the threat assessment team established for each public elementary and secondary school in the local school division at least one school resource officer employed in the school. Recommend oppose; Board has historically opposed. (22106167D-H1)

AMEND

HJ 79 (Reid) (HPE) provides that the General Assembly may by general law exempt from taxation the real property of a surviving spouse of a member of the armed forces of the United States who died in the attack on the Pentagon on September 11, 2001. Under a current constitutional provision, only the surviving spouse of a member of the armed forces who was killed in action is eligible for the real property tax exemption. Recommend amend. Amend to support as a state tax credit; Board has historically recommended amendment. (22103332D)

HJ 96 (Wyatt) (HPE) authorizes the General Assembly to exempt from tax the real property of a surviving spouse of a member of the armed forces who died in the line of duty while performing official military activities. The amendment provides that such exemption is only available when the death of such member of the armed forces did not result from criminal conduct. The current Constitution exempts the real property of a surviving spouse of a member of the armed forces who was killed in action, a disabled veteran, and the surviving spouse of a disabled veteran. Recommend amend. Amend to support as a state tax credit; Board has historically recommended amendment. Cost to the County is likely to exceed \$7 million annually. (22103608D)

New Bills – 2022 GA

HB 1290 (Hayes) (Passed House; SRUL)/**SB 764** (Barker) (Passed Senate) requires every public body to report to the Chief Information Officer (CIO) all known incidents that threaten the security of the Commonwealth's data or communications or result in exposure of data protected by federal or state laws and all other incidents compromising the security of the public body's information technology systems with the potential to cause major disruption to normal activities of the public body or other public bodies. The bill requires such reports to be made to the CIO within 24 hours from when the incident was discovered. Recommend monitor. (22106070D-H1, 22104425D-E)

HB 1325 (Reid) (HCCT) changes the existing authorization for local governments to finance, by ordinance, clean energy, resiliency, and stormwater management programs to authorize the financing of eligible improvements to eligible properties, as defined in the bill, under C-PACE loan programs. The bill allows localities to delegate billing, collection, and remittance of C-PACE loan payments to a third party. The bill exempts localities that have enacted C-PACE ordinances before July 1, 2022, from enforcement. Recommend support. (22105767D)

Courts/Public Safety

HB 1279 (Anderson) (HCT) provides that a person against whom an emergency or preliminary protective order has been issued may petition to have police and court records relating to such order expunged if the order expires or is dissolved by the issuing court or if a hearing for the issuance of a permanent protective order is scheduled or held and such permanent protective order is subsequently not issued. Recommend oppose. (22104750D)

SB 443 (Boysko) (Senate Floor) provides that a defendant with a disorder or disability, as defined in the bill, may file a petition that requests the sealing of the criminal history record information and court records of a Class 4 felony conviction or deferred and dismissed disposition. Under current law, Class 4 felony convictions or deferred and dismissed dispositions are ineligible to be sealed. Recommend support with amendment. Support concept of expungement for certain crimes; sufficient state funding for implementation is essential. (22103094D)

SB 730 (Lewis) (Senate Floor) increases the daily compensation for jurors from \$30 to \$100. Recommend monitor. (22104517D)

HJ 59 (Wampler) (Reported from HRUL) requests the Office of the Executive Secretary of the Supreme Court of Virginia to (i) determine the cost of the creation and implementation of a uniform filing system for all state circuit, general district, and juvenile and domestic relations district courts; (ii) identify any potential challenges of and concerns relating to establishing a statewide electronic filing system, such as Internet availability in certain parts of the state, balancing accessibility and transparency while maintaining confidentiality as required for certain cases, security concerns, system failure or outages, and training for users of the system, and determine possible solutions for identified concerns; (iii) analyze the current federal electronic filing system and plans implemented in other states to determine best practices for developing and implementing a statewide system for all circuit and district courts in the Commonwealth; and (iv)

develop a plan for the establishment of a uniform electronic filing system in all circuit and district courts in the Commonwealth. Recommend monitor. (22101187D)

SB 669 (Surovell) (SJUD) requires that all law-enforcement agencies that employ at least two law-enforcement officers, reduced from at least 10 under current law, ensure that, in the case of all written citizen complaints or complaints submitted in an electronic format, the agency (i) allows for the submission of citizen complaints through the agency's website or other electronic format; (ii) provides a receipt or written acknowledgment confirming the submission of the complaint to the individual filing such complaint; (iii) provides a written response to any individual who has filed a complaint within 30 days of the filing of such complaint indicating the status of such complaint; (iv) provides a written response to any individual who has filed a complaint within 60 days of the filing of such complaint indicating the final disposition of such complaint and if any action, including disciplinary action, was taken as a result of such complaint or, if after 60 days a resolution of the complaint has not occurred, the law-enforcement agency provides a written response indicating the reason for the delay in reaching a final disposition and an anticipated date of completion; (v) for any complaint that is not resolved within 60 days, provides a written response to any individual who has filed a complaint upon the resolution of such complaint indicating the final disposition of such complaint and if any action, including disciplinary action, was taken as a result of such complaint; and (vi) provides notice to any individual who has filed a complaint if an investigation into a previously filed complaint has been reopened upon the submission of new materials after a final resolution for the previously filed complaint has been reached. The bill also provides that all complaints, investigative materials associated with such complaints, and any dispositional information may be disclosed to the attorney for the Commonwealth when such materials are requested by the attorney for the Commonwealth and relate to a law-enforcement officer's credibility, integrity, or honesty or may constitute exculpatory or impeachment evidence. Recommend amend. Amend to add exemptions for cases when complainants want to remain anonymous or do not provide the necessary contact information. (22104590D)

Firearms

HB 325 (Freitas) (Passed House) repeals the requirement that, if a firearm is lost or stolen from a person who lawfully possessed it, such person shall report the loss or theft of the firearm to any local law-enforcement agency or the Department of State Police within 48 hours after such person discovers the loss or theft or is informed by a person with personal knowledge of the loss or theft. Under current law, a violation is punishable by a civil penalty of not more than \$250. Recommend oppose. (22102189D)

Health and Human Services

HB 95 (Head) (Passed House; SCL) requires financial institutions to cooperate in any investigation of alleged adult abuse, neglect, or exploitation conducted by a local department of social services and to make any financial records or information relevant to such investigation available to the local department upon request. Recommend support. (22105038D-H1)

HB 156 (Byron) (House Floor) prohibits any person employed by or who has entered into a contract to provide services on behalf of the Department of Health or a local department of health from initiating communication regarding health-related matters with a minor on behalf of the Department or local department of health without the consent of the minor's parent, except as otherwise required by law. Recommend oppose. (22102263D)

HB 389 (Bulova) (Reported from HAPP) requires the Board of Education to establish a system of regional entities that will be responsible for coordinating early childhood care and education services, guiding quality improvement of such services and coordinated access to such services for families, and implementing the uniform measurement and improvement system. The bill establishes the Child Care Subsidy Program Overpayment Fund, consisting of all overpayment moneys collected or recovered by the Department of Education or any state or local agency contracted to administer the Child Care Subsidy Program, net of any refunds due to the federal government, to be used solely for the purpose of covering the cost of providing training and supports to early childhood care and education entities. Recommend support. (22104067D)

Land Use

HB 1088 (Leftwich) (HCCT) changes the definition of "subdivision" to provide that it does not preclude valid and enforceable boundary line agreements between owners of adjacent parcels and that divisions of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over certain development and zoning requirements. The bill requires a subdivision ordinance to allow a locality to make agricultural subdivisions within an agricultural zoning district. Recommend oppose. (22103287D)

Legislation Provided for Discussion

Masks

SB 739 (Dunnavant) (Passed Senate; HED) requires, except in the case of the 10 unscheduled remote learning days otherwise permitted by law or in certain cases of student discipline, each school board to offer in-person instruction, as defined in the bill, to each student enrolled in the local school division in a public elementary or secondary school for at least the minimum number of required annual instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. The bill permits, notwithstanding any other provision of law or any regulation, rule, or policy implemented by a school board, school division, school official, or other state or local authority, the parent of any child enrolled in a public elementary or secondary school, or in any school-based early childhood care and education program, to elect for such child to not wear a mask while on school property. The bill provides that no parent making such an election shall be required to provide a reason or any certification of the child's health or education status and no student shall suffer any adverse disciplinary or academic consequences as a result of this parental election. (22106287D-S1)

HB 514 (March) (HHWI) prohibits the Board of Health, Commissioner of Health, and Governor from issuing any rule, regulation, or order that requires (i) individuals to wear masks or other face coverings or (ii) businesses to require customers to wear masks or other face coverings while on the premises of such business and prohibits any local school board from requiring any student enrolled at a public elementary or secondary school in the local school division to wear a mask, face covering, or other covering of the student's nose and mouth at school, on a school bus, or at a school-sponsored activity. (22101551D)

HB 1036 (LaRock) (HED) prohibits any local school board from requiring any student enrolled at a public elementary or secondary school in the local school division to wear a mask, face covering, or other covering of the student's nose and mouth at school, on a school bus, or at a school-sponsored activity unless the local school board substantiates such requirement with evidence that (i) such requirement is necessary to suppress a nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health; (ii) no reasonable alternatives to such requirement exist in light of the impact on quality of life and economic well-being; and (iii) such requirement is narrowly tailored to address the nuisance dangerous to the public health or the communicable, contagious, or infectious disease or other danger to the public life and health. (22103001D)

HB 1038 (Scott, P) (HHWI) prohibits the Board of Health, Commissioner of Health, or Governor from issuing any rule, regulation, or order that requires (i) individuals to wear masks or other face coverings or (ii) businesses to require customers to wear masks or other face coverings while on the premises of such business. (22101291D)

HB 1272 (Batten) (Reported from HED) requires, except in the case of the 10 unscheduled remote learning days otherwise permitted by law, each school board to offer in-person instruction, as defined in the bill, to each student enrolled in the local school division in a public elementary or

secondary school for at least the minimum number of required annual instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. (22106116D-H1)

Taxation

HJ 58 (Carr) (HPE) directs the General Assembly to implement a tax relief program by which longtime owner-occupants of real property are granted a total or partial exemption from local real property taxation of real estate the market value of which has increased as a consequence of the refurbishment or renovation of other residences or the construction of new residences in long-established residential areas or areas of deteriorated, vacant, or abandoned homes and properties. (22103333D)

HB 90 (McNamara) (HAPP) exempts food purchased for human consumption and essential personal hygiene products (the grocery tax) from all state, regional, and local sales taxes. The bill dedicates state sales tax revenue to provide a supplemental school payment to counties and cities. For fiscal year 2023, the payment is the county or city's fiscal year 2022 distribution of revenue from the grocery tax. For fiscal year 2024 and after, the payment is the previous year's payment multiplied by the county or city's local sales tax index, defined in the bill as the ratio by which sales tax revenues in a county or city for the current year exceed the previous year's revenues. (22100681D)

HB 1008 (Durant) (HFIN) exempts food purchased for human consumption and essential personal hygiene products (the grocery tax) from all state, regional, and local sales taxes. (22100737D)

SB 451 (Boysko) (Reported from SFIN) eliminates the 1.5 percent tax on food for human consumption. Provides a replacement for school funding based on school-aged population, but does not provide a replacement for transportation revenues. Does not repeal the one percent local option tax. (SFIN substitute)

Transportation

SB 722 (Marsden) (Passed Senate) prohibits, in Planning District 8, the parking of a vehicle with its wheels partially or fully on the curb, or with its wheels straddling the curb. The bill provides that any vehicle parked on a curb may be removed by or under the direction of a law-enforcement officer. (22105977D-S1)

HB 632 (Carr) (House Floor) prohibits any individual from operating a motor vehicle with a gross weight of 6,500 pounds or less with an exhaust system that emits noise in excess of 85 decibels. The bill also allows the governing body of any county, city, or town located within the Northern Virginia Planning District or Richmond Regional Planning District to provide by ordinance that no person shall operate any motor vehicle on a highway or on public or private property within 500 feet of any residential district unless such motor vehicle is equipped with an exhaust system of a type installed as standard equipment, or comparable to that designed for use on that particular

vehicle or device as standard factory equipment, in good working order and in constant operation to prevent excessive noise. (22105730D-H1)

Administration of Government

SB 172 (Peake) (Passed Senate) requires county boards of supervisors, prior to July 1 of each year, to set a maximum annual compensation, which will become effective as of January 1 of the next year. (22102602D-E)

Food Inspections

HB 837 (Wilt) (Passed House) requires any food manufacturer, food storage warehouse, and retail food establishment to obtain a permit from the Commissioner of the Department of Agriculture and Consumer Services prior to operating. Any such entity issued a permit would be exempt from any other license, permit, or inspection required for the sale, preparation, or handling of food. The bill requires the Commissioner to notify such entities of the reason for denial of a permit and requires that any denial, suspension, or revocation of a permit be carried out in accordance with the Administrative Process Act. (22104157D-E)

Recovery Residences

SB 622 (Favola) (Passed Senate) requires every person who operates a recovery residence to disclose to potential residents whether the recovery residence is a certified recovery residence and that no health care provider or behavioral health service provider who receives public funds or state agency shall refer a person with substance abuse disorder to a recovery residence unless the recovery residence has been certified by the Department of Behavioral Health and Developmental Services (the Department) in accordance with regulations adopted by the Board of Behavioral Health and Developmental Services (the Board). The bill also provides that credentialing agencies by which the Board may require accreditation or in which the Board may require membership shall administer credentialing and certification programs in accordance with standards of the National Alliance for Recovery Residences; requires the Board to adopt regulations requiring each certified recovery residence include one or more resident or nonresident staff persons who is employed by the provider for compensation and who is responsible for oversight or management of the recovery residence; and requires the Department to provide, for each certified recovery residence included on the list maintained on the Department's website the level of support provided by the certified recovery residence. The bill also provides that certified recovery residences shall constitute residential occupancy by a single family for zoning purposes, regardless of the number of persons residing in the certified recovery residence, and exempts certified recovery residences from the provisions of the Virginia Landlord and Tenant Act. (22105949D-S1)

HB 277 (Coyner) (Passed House) requires every person who operates a recovery residence to disclose to potential residents whether the recovery residence is a certified recovery residence and that no health care provider or behavioral health service provider who receives public funds or state agency shall refer a person with substance abuse disorder to a recovery residence unless the recovery residence has been certified by the Department of Behavioral Health and Developmental Services (the Department) in accordance with regulations adopted by the Board of Behavioral

Health and Developmental Services (the Board). The bill also provides that credentialing agencies by which the Board may require accreditation or in which the Board may require membership shall administer credentialing and certification programs in accordance with standards of the National Alliance for Recovery Residences; requires the Board to adopt regulations requiring each certified recovery residence include one or more resident or nonresident staff persons who is employed by the provider for compensation and who is responsible for oversight or management of the recovery residence; and requires the Department to provide, for each certified recovery residence included on the list maintained on the Department's website the level of support provided by the certified recovery residence. The bill also provides that certified recovery residences shall constitute residential occupancy by a single family for zoning purposes, regardless of the number of persons residing in the certified recovery residence, and exempts certified recovery residences from the provisions of the Virginia Landlord and Tenant Act. (22105975D-H1)