

**Specific Legislation and Legislation for Discussion**  
**Board of Supervisors Legislative Committee**  
**January 28, 2022**

**Specific Legislation**

**Historical Positions of the Board**

**SUPPORT**

**HB 568** (Lopez) (HCCT) provides that any two or more localities may enter into agreements with one another for joint action to establish a green bank to promote investment in clean energy technologies and provide financing for clean energy technologies. The governing bodies of participating localities must each adopt an ordinance to approve such agreement before the agreement takes effect. The existing green bank enabling statute is silent on the issue of regional agreements. Recommend support; Board has historically supported. (22100317D)

**OPPOSE**

**HB 483** (Freitas) (HPS)/**HB 827** (Wilt) (HPS)/**HB 1033** (Davis) (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. (22101822D, 22100614D, 22101875D)

**SB 695** (Stuart) (SACNR) repeals the State Air Pollution Control Board's authority to implement low-emissions and zero-emissions vehicle standards for vehicles with a model year of 2025 and later. Recommend oppose; Board has historically supported reducing fossil fuel emissions. (22103364D)

**Project Labor Agreements/Prevailing Wage**

**HB 58** (Davis) (House Floor) prohibits local governing bodies from establishing provisions related to procurement of goods, professional services, or construction that would require a wage floor or any other employee benefit or compensation above what is otherwise required by state or federal law to be provided by a contractor to one or more of the contractor's employees as part of a contract with the locality. The bill provides that the prohibition shall not affect contracts between a locality and another party that were executed prior to January 1, 2023, or the renewal or future rebids of

services thereof. The bill provides that localities shall not be prohibited from entering into contracts for economic development incentives in which the company receiving the incentives is required to maintain a certain stated wage level for its employees. Recommend oppose; Board has historically opposed. (22104664D-H1)

**SB 374** (Obenshain) (SCL) repeals certain provisions of the Code that (i) require contractors and subcontractors under any public contract with a state agency or certain localities to pay the prevailing wage rate; (ii) authorize any public body, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, to require bidders to enter into or adhere to project labor agreements on the public works projects; and (iii) authorize a locality to recognize any labor union or other employee association as a bargaining agent of any public officers or employees or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents. Recommend oppose; Board has historically opposed. (22101706D)

#### **AMEND**

**HJ 33** (Subramanyam) (HRUL) requests that the Department of Transportation conduct a two-year study of traffic congestion on that portion of U.S. Route 50 between the intersections of Interstate 66 in Fairfax County and U.S. Route 15 in Loudoun County and the feasibility of implementing improvements to such portion of the highway. Recommend amend; Board has historically recommended amendment to include transit. (22103290D)

## **New Bills – 2022 GA**

### **Transportation**

**HB 482** (Austin) (Reported from HTRAN) directs the Commonwealth Transportation Board to adopt performance standards for the Department of Transportation's review and approval of subdivision and commercial development plans by January 1, 2025. The bill requires the Commissioner of Highways to gather and tabulate information to support development of the performance standards and present such data to the Board on a quarterly basis starting prior to April 1, 2023. Recommend support. (22104104D)

**HB 633** (Carr) (HTRAN) expands the current authority of any locality to reduce the speed limit to less than 25 miles per hour, but not less than 15 miles per hour, on highways within its boundaries that are located in a business district or residence district, provided that such reduced speed limit is indicated by lawfully placed signs, to include highways within the state highway system. Recommend support. (22100393D)

**HB 1238** (Helmer) (HTRAN) designates Brentwall Drive in Fairfax County as "Valluvar Highway." Recommend support. (22104412D)

**SB 488** (McClellan) (SFIN) establishes the Transit Transition Fund and Program, administered by the Department of Rail and Public Transportation, to provide grants to state, regional, and local public entities to support the transition of public transit fleets to zero-emission and low-emission fleets. The Director of the Department is directed by the bill to report annually to the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1 of each year. The bill also directs 7.5 percent of the revenues collected from the tax on sports betting permittees to the Fund, reducing the share of the tax revenue allocated to the general fund. Recommend support. (22103087D)

**SB 708** (Marsden) (STRAN) establishes a driving decarbonization program and fund to assist developers with non-utility costs associated with the installation of electric vehicle charging stations. A developer would be eligible to grants of 50 to 70 percent of the non-utility costs, depending on where the charging station is located in the Commonwealth. The total amount of grants awarded in a fiscal year is capped at \$20 million, with at least \$5 million in grants reserved for charging stations located in historically economically distressed communities. Recommend monitor. (22104355D)

### **Elections**

**HB 195** (Ransone) (Passed House) provides that in the event that there is no suitable building that could be used for a polling place within a precinct or within one mile of the precinct boundary, the general registrar or the governing body of the locality may request from the Department of Elections a waiver to establish a polling place that does not meet the location requirements. The bill provides that Department shall grant such a waiver and may impose any conditions on the waiver that it deems necessary or appropriate to ensure accessibility and security of the polling place. Recommend support. (22101098D)

**HB 895** (Kilgore) (HPE)/**SB 370** (Bell) (SPE) requires local electoral boards and general registrars to perform certain risk-limiting audits, defined in the bill, under the supervision of the Department of Elections and in accordance with the procedures prescribed by the State Board of Elections. The bill provides that localities are required to participate in such audits at least once every five years. The bill also provides that the Department shall submit a report on the results of such audits to the State Board. The provisions of the bill requiring that such audits be conducted (i) for at least one randomly selected contested race for the General Assembly in the year of a general election for members of the General Assembly and (i) for any other contested race that is necessary to ensure that each locality participates in a risk-limiting audit of an office within its jurisdiction at least once every five years or that the State Board finds appropriate has a delayed effective date of July 1, 2023. The provision of the bill requiring that such audits be conducted for at least one randomly selected contested race for an office that requires certification by the State Board in the year of general election for any local office has a delayed effective date of July 1, 2024. Recommend monitor. (22104191D, 22104252D)

**SB 652** (Vogel) (SPE) requires an applicant for an absentee ballot to provide on the application the last four digits of his social security number, whether completing the application in person or otherwise, and further provides that the failure to include such information shall be a material omission, grounds for rejection of the application. Recommend oppose. (22103317D)

### Employment Issues

**SB 365** (Stuart) (SCL) provides that for the purposes of the Virginia Overtime Wage Act, the term "employee" does not include certain persons excluded from the definition of "employee" under the federal Fair Labor Standards Act (the federal act). The bill provides that an employer may assert an exemption to the overtime requirement of the Virginia Overtime Wage Act for employees who meet certain exemptions set forth in the federal act. The bill also provides that a public agency, as defined in the federal act, may provide an employee compensatory time off in lieu of overtime compensation, in accordance with the federal act. Recommend support. (22102524D)

**SB 331** (Reeves) (SCL) permits individuals who work as both employees and on a volunteer basis for a public body, church, or nonprofit organization to earn overtime wages for hours worked as an employee only and continues to exclude hours worked on a volunteer basis from overtime wage requirements. Recommend support with amendment. Amend to conform to SB 365. (22102129D)

### FOIA

**HB 444** (Bennett-Parker) (Reported from HGL) amends existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means. Definitions, procedural requirements, and limitations for all-virtual public meetings are set forth in the bill, along with technical amendments. Recommend support. (22104056D)

## **Building Code**

**HB 701** (Kory) (HGL) provides that the Uniform Statewide Building Code (the Building Code) shall not supersede the building code provisions and regulations adopted by a locality that are related to energy efficiency and conservation if the standards outlined in such provisions and regulations are as or more stringent than those contained in the Building Code. The bill defines a standard to be as stringent as one contained in the Building Code if such standard would perform the same function as the standard contained in the Building Code without using more energy than would be used under the provisions of the Building Code. Recommend support. (22101692D)

**HB 905** (Lopez) (HCCT) allows a locality by ordinance to create and require stretch codes, defined in the bill as energy efficiency standards that are in addition to or more stringent than those in the Uniform Statewide Building Code, and use them as an alternative means of compliance with a locality's building requirements. The bill requires periodic review of the codes and allows the locality to make amendments. Recommend support. (22103256D)

## **Land Use**

**HB 445** (Murphy) (HCCT) allows localities to require broadband service and associated infrastructure be installed for new residential and commercial development. Recommend support. (22103045D)

**HB 520** (Bulova) (HCCT) requires a locality's comprehensive plan to consider strategies to address climate resilience in order to anticipate, prepare for, respond to, and adapt to changing conditions and hazardous events. Recommend support. (22101720D)

**HB 616** (Roem) (HCCT) requires a local governing body to appropriate such funds as necessary so that its board of zoning appeals (BZA) may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Existing law allows such BZA expenditures "within the limits of funds appropriated by the governing body." Recommend oppose. (22101257D)

**HB 648** (Kory) (HCCT) requires a local planning commission to hold a public hearing as part of the process for determining whether certain proposed features or facilities are substantially in accord with a locality's comprehensive plan. Existing law makes such hearings optional. Recommend oppose. (22103147D)

**HB 778** (Williams) (HCCT) requires a locality that votes to remove, relocate, contextualize, or cover certain war monuments or memorials to initiate a process to gift the monument or memorial to a nonprofit organization that is most related to the mission and spirit of the monument or memorial, at the locality's expense. The bill provides that the placement of the monument or memorial shall be decided by an independent committee and that a majority vote by the committee as to the relocation of the memorial is binding on the locality and shall be carried out within six months from the date of the committee's decision. Recommend oppose. (22102285D)

**SB 666** (Petersen) (SJUD) redefines "lost access" and "lost profits" for the purposes of determining just compensation in eminent domain cases. Recommend oppose. (22104185D)

**SB 678** (Stuart) (SACNR) amends the definition of "agricultural operation" to including the housing of livestock. Recommend amend. Amend to remove riding and boarding stables. (22104182D)

### **Procurement**

**HB 438** (Sewell) (HGL) provides that limitations imposed upon certain single-project fees shall not apply to localities with a population in excess of 400,000. Recommend support with amendment to clarify language in bill to improve implementation. (22102706D)

### **Taxation**

**HB 1010** (Durant) (HFIN)/**SB 620** (Cosgrove) (SFIN) requires the governing body of a locality to hold a referendum before making most increases in their real property tax rate. Under current law, the governing body of a locality is required to limit their real property tax rate to a rate that would collect no more than 101 percent of the amount of real property taxes collected for the previous year. Increases above this rate may only be imposed if the locality holds a public meeting. The bill replaces the public meeting requirement with a requirement that any such increase be approved in a referendum. Recommend oppose. (22103864D, 22104159D)

## **Legislation Provided for Discussion**

### **Taxation**

**HB 957** (Tran) (HFIN) provides that beginning with taxable year 2022, any locality may declare real property owned by a surviving spouse of a member of the armed forces of the United States who died in the line of duty with a line of duty determination from the U.S. Department of Defense, where the spouse occupies the real property as his principal place of residence and does not remarry, a separate class of property for local taxation of real property that may be taxed at a different rate than that imposed on the general class of real property, provided that the rate of tax is greater than zero and does not exceed the rate of tax on the general class of real property. (22100675D)

**HJ 83** (Tran) (HPE) amends the Constitution of Virginia by allowing localities to exempt from the real property tax of any surviving spouse of any member of the armed forces of the United States who was killed in the line of duty with a line of duty determination as determined by the United States Department of Defense who occupies the real property as his or her principal place of residence. Under current law, the exemption is only available to the surviving spouse of a member of the armed forces who was killed in action. (22100676D)

### **Environment/Land Use**

**HB 969** (Simonds) (HCCT) requires cities with populations greater than 20,000 and counties with populations greater than 100,000 to consider, at the next and all subsequent reviews of the comprehensive plan, adopting an environmental justice strategy. The bill provides that the locality's strategy shall be to identify environmental justice and fenceline communities within the jurisdiction of the local planning commission and identify objectives and policies to reduce health risks, to promote civic engagement, and to prioritize improvements and programs that address the needs of the environmental justice and fenceline communities. (22102311D)

### **Health and Human Services**

**HB 277** (Coyner) (HCCT)/**SB 622** (Favola) (SRSS) 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. (22103500D, 22104207D)

**SB 361** (Stuart) (Reported from SEH) provides that participation in the Marcus alert system shall be optional for localities and that no locality, community services board, or behavioral health authority shall be required to participate in the Marcus alert system. (22105304D-S1)

### **Temporary Detention Orders**

**HB 135** (Cherry) (HCT) provides that, in cases in which transportation of a person subject to an emergency custody order or temporary detention order is ordered to be provided by an alternative transportation provider, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order, and that the alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the community services board or its designee that is responsible for conducting the evaluation or the temporary detention facility, as is appropriate. The bill also adds employees of and persons providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services to the list of individuals who may serve as alternative transportation providers. (22102457D)

**HB 159** (Byron) (HCT) requires a facility or location to which a minor or adult who is subject to an emergency custody or temporary detention order is transported to accept custody of the minor or adult upon completion of transportation and arrival of the minor or adult at the facility and specifies that the primary law-enforcement agency shall provide transportation of a person who is involved in the involuntary commitment process, rather than a sheriff, as provided under current law. (22103519D)

**HB 163** (Ransone) (HCT) amends numerous sections governing emergency custody and temporary detention of minors and adults to clarify duties of law-enforcement agencies and mental health facilities with regard to custody. The bill requires facilities to take custody of a minor or person who is the subject of an emergency custody order or temporary detention order immediately upon completion of transportation and arrival of the minor or person at the facility; specifies that if a facility does not take custody of a minor or person immediately upon completion of transportation and arrival at the facility, the order is void and the minor or person shall be released; provides that emergency custody orders shall not be extended; and makes other changes to clarify the role and obligations of law enforcement in the emergency custody and temporary detention process. (22103592D)

**HB 1037** (Sewell) (HCT) provides that, in cases in which transportation of a person subject to an emergency custody order or temporary detention order is ordered to be provided by an alternative transportation provider, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the



order, and that the alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the community services board or its designee that is responsible for conducting the evaluation or the temporary detention facility, as is appropriate. The bill also adds employees of and persons providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services to the list of individuals who may serve as alternative transportation providers. The bill also requires the Department of Behavioral Health and Developmental Services to expand its existing contract for the provision of alternative transportation of a person who is subject to a temporary detention order or enter into new contracts for alternative transportation of a person who is subject to a temporary detention order to ensure sufficient availability of alternative transportation providers to take custody of and provide alternative transportation for all persons for whom alternative transportation is ordered. (22102701D)

**HB 1147** (Bell) (HCT) provides that if the facility indicated on a temporary detention order is a state facility, no bed for the person detained or in custody pursuant to the temporary detention order is immediately available at such state facility, and an employee or designee of such state facility is available to take custody of such person, such employee or designee of the state facility may assume custody of such person wherever such person is located and maintain custody of such person and transport such person to such state facility or to an alternative facility of temporary detention. The bill also provides that a person who is an inmate who is subject to an order authorizing treatment shall remain in law-enforcement custody at all times prior to admission to the facility designated for treatment of the person pursuant to such order. (22103534D)

**SB 176** (Peake) (SEH) makes clear that, in cases in which transportation of a person subject to an emergency custody order or temporary detention order is ordered to be provided by an alternative transportation provider, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order, and that the alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the community services board or its designee that is responsible for conducting the evaluation or the temporary detention facility, as is appropriate. The bill also adds employees of and persons providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services to the list of individuals who may serve as alternative transportation providers. (22102915D)

**SB 268** (Favola) (SEH) provides that, in cases in which transportation of a person subject to an emergency custody order is ordered to be provided by an alternative transportation provider, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order, and the alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as an evaluation is conducted and custody is transferred pursuant to a temporary detention order or the person is released upon determination the person does not meet the criteria for temporary detention or custody of the person is transferred to the community services board or its designee that is responsible for conducting the evaluation. The bill also provides that in cases in which

transportation of a person subject to a temporary detention order is ordered to be provided by an alternative transportation provider, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order, and that the alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the temporary detention facility. The bill also adds employees of and persons providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services to the list of individuals who may serve as alternative transportation providers. (22103833D)

**SB 373** (Deeds) (SEH) provides that a magistrate may, upon the sworn petition of the Commissioner or his designee, issue an order extending an emergency custody order for a period of up to 48 hours upon finding that probable cause exists to believe that the behaviors upon which a finding that the person meets the criteria for emergency custody are the result of a medical or physical condition, including substance intoxication or withdrawal, and that the medical standard of care for such medical or physical condition calls for testing, observation, or treatment to prevent harm to the person resulting from such medical or physical condition. Upon issuance of an order extending the period of emergency custody, the person shall be transported to and detained in an appropriate medical care facility for testing, observation, and treatment. (22101375D)

**SB 593** (Newman) (SEH) provides that auxiliary police officers may execute emergency custody orders and provide transportation for a person subject to an emergency custody or temporary detention order; adds an employee or designee of the Department of Behavioral Health and Developmental Services to the list of persons who may provide alternative transportation of a person who is subject to an emergency custody or temporary detention order, and provides that, in cases in which transportation of a person subject to an emergency custody order or temporary detention order is ordered to be provided by an alternative transportation provider, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order, and that the alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the community services board or its designee that is responsible for conducting the evaluation or the temporary detention facility, as is appropriate. The bill also directs the Department of Criminal Justice Services to establish compulsory minimum training standards for auxiliary police officers who are called into service solely for the purpose of executing emergency custody orders and providing transportation for such person subject to an emergency custody order or to provide transportation for a person in the temporary detention process. (22104326D)

**SB 650** (Hanger) (SEH) requires every hospital with an emergency department to employ sufficient security staff to be able to accept custody of a person who is subject to emergency custody or temporary detention and who is transported to such hospital by a law-enforcement officer or receiving services at such hospital and requires every provider of behavioral health services licensed by the Department of Behavioral Health and Developmental Services to a person who is subject to emergency custody and may be transported for the required evaluation to (i) be licensed to provide the level of security necessary to protect both the person and others from harm,

and actually capable of providing the level of security necessary to protect the person and others from harm, and (ii) accept custody of every person transported to such provider for evaluation by law enforcement. (22103826D)

**Transportation**

**SB 722** (Marsden) (STRAN) 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. (22104307D)

**HJ 76** (Torian) (HRUL) requests the Department of Rail and Public Transportation to study Northern Virginia regional transit and develop a regional transit plan that includes an extension of Washington Metropolitan Area Transit Authority service to Prince William County and report its findings and recommendations to the Governor and General Assembly by November 1, 2022. (22102347D)