

PLANNING COMMISSION
LUPR Committee, May 2, 2024

Kristen M. Kanaskie
Assistant County Attorney
Kristen.kanaskie@fairfaxcounty.gov
(Office) 703-324-2646; (Cell) 571-495-0147

BILLS CONSIDERED, DEFERRED, AND APPROVED

2024 General Assembly Session Statistics

Type	Introduced	Passed House	Passed Senate	Passed	Cont'd to next session	Failed	Pending	Approved	Vetoed
H.B.	1547	736	664	656	227	664	0	165	54
H.J.R.	427	386	382	382	24	21	0	0	0
H.R.	452	442	0	442	0	10	0	0	0
S.B.	737	396	454	390	143	204	0	99	33
S.J.R.	246	228	234	228	11	7	0	0	0
S.R.	185	0	182	182	0	3	0	0	0
Totals	3594	2188	1916	2280	405	909	0	264	87

ADMINISTRATION OF GOVERNMENT

BILLS THAT PASSED

HB 1488 (Henson) / SB 413 (Head) Local government; standardization of public notice requirements

Standardizes the frequency with which and length of time in which notices of certain meetings, hearings, and other intended actions of localities must be published. The notice provisions included in the bill are organized into three groups: (i) publication required at least seven days before the meeting, hearing, or intended action; (ii) publication required twice, with the first notice appearing no more than 28 days before and the second notice appearing no less than seven days before the meeting, hearing, or intended action; and (iii) publication required three times, with the first notice appearing no more than 35 days before and the third notice appearing no less than seven days before the meeting, hearing, or intended action. The bill also standardizes descriptive information in such notices related to (a) proposing, amending, or repealing ordinances; (b) local budget adoption; and (c) zoning ordinances and planning-related actions.

** Those interested in this legislation are advised to submit comments to the State Code Commission over the summer, ahead of their October meeting.*

HB 264 (Hope) / SB157 (Boysko) Legal notices and publications; online-only news publications, requirements.

Provides that, where any ordinance, resolution, notice, or advertisement is required by law to be published in a newspaper, such ordinance, resolution, notice, or advertisement instead may be published in an online-only news publication subject to certain requirements specified in the bill. The bill sets out a process by which an online-only news publication shall petition the circuit court of the appropriate jurisdiction to publish such ordinances, resolutions, notices, or advertisements and authorizes the court to grant such online-only news publication the authority to publish such ordinances, resolutions, notices, or advertisements for a period of one year. The bill also describes the process by which an online-only news publication may continue renewing such authority to publish in each successive year.

SB 354 (Locke) / HB 467 (Simon) Prohibits localities from establishing real estate contract disclosures.

Adds § 15.2-983.1 to the state code, providing that localities may not establish or enforce mandatory disclosure requirements for a real estate transaction involving prohibiting localities from establishing mandatory real estate contract disclosures for real estate agents or licensees. This bill was in response to a county attempting to impose real estate contract disclosure requirements on real estate agents for properties near an airport. Real estate contract disclosures are governed by real estate licensure laws and are enforced by the Virginia Real Estate Board.

ADMINISTRATION OF GOVERNMENT
RESOLUTION THAT FAILED

SJ18 (Hashmi) Creates a 13-member joint subcommittee for a one-year study of the Dillon Rule and its impact on Virginia’s localities.
CONTINUED to 2025.

LAND USE
BILLS THAT PASSED

SB49 (Locke) / HB478 (Coyner) Expands the current law to allow all localities the ability to establish a community revitalization fund to be used to prevent neighborhood deterioration. Currently only the City of Richmond has this authority.

HB650 (Coyner) Provides that the conditions of a special exception or special use permit may include a period of validity; however, in the case of a special exception or special use permit for residential and electrical generation projects, the period of validity shall be no fewer than three years. The bill provides that for so long as a special exception, special use permit, or conditional use permit remains valid, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy, or plan adopted subsequent to the date of approval of the special exception, special use permit, or conditional use permit shall adversely affect the right of the developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the special exception, special use permit, or conditional use permit unless the change or amendment is required to comply with state law or there has been a mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

HB914 (Shin) A locality that establishes a local historic district pursuant to this section may provide tax incentives for the conservation and renovation of historic structures in such district.

HB1028 (Reaser) Any locality that has adopted an affordable housing program pursuant to § 15.2-2304, 15.2-2305, or 15.2-2305.1 may by ordinance require that in an application for a special exception or special use permit in accordance with § 15.2-2286 affordable rental units be included for any proposed development of an assisted living facility to be licensed pursuant to § 63.2-1701. Such ordinance shall apply to newly licensed assisted living facilities and permit applications approved on or after January 1, 2025.

➤ **VETOED BY THE GOVERNOR**

HB1398 (Bennett-Parker) Creates a framework for localities to preserve affordable housing by exercising a right of first refusal on publicly supported housing, defined in the bill.

➤ **VETOED BY THE GOVERNOR**

SB597 (McPike) Expands our authority to create an affordable housing program to all other localities. Authorizes any locality in the Commonwealth to provide for an affordable housing dwelling unit program by amending the zoning ordinance of such locality. The bill requires that localities create an advisory committee and actively seek input from a variety of stakeholders listed in the bill. The bill also contains a list of incentives, in addition to density credits, that a locality may offer to a developer. The bill also grandfathers any ordinances enacted before January 1, 2024.

➤ **VETOED BY THE GOVERNOR**

SB595 (Bagby) / HB208 (Simonds) Allows localities to adopt a healthy communities strategy in its comprehensive plan.

➤ **VETOED BY THE GOVERNOR**

SB296 (VanValkenburg) / HB1356 (Owen) Requires local planning commissions to use the same approval process for residential development projects as is currently required for commercial development projects.

House Bill was CONTINUED to 2025.

LAND USE BILLS THAT FAILED

HB337 (Thomas) Requires that the siting of a data center shall only be approved in areas where the data center will have a minimal impact on historic, agricultural, and cultural resources. It also prohibits the locality from siting a data center within one-half mile of a national park, state park, or other historically significant site.

HB338 (Thomas) Allows a locality, prior to any approval for the siting of a data center, to perform a site assessment to examine the effect of the data center on water usage and carbon emissions within the locality.

CONTINUED to 2025.

HB1010 (Lovejoy) Prohibits a locality from siting a data center within one-quarter mile of federal, state, or local parks, schools, and property zoned or used for residential use.

SB284 (Roem) Requires that the siting of a data center shall only be approved in areas where the data center will have a minimal impact on historic, agricultural, and cultural resources. It also prohibits the locality from siting a data center within one mile of a national park, state park, or other historically significant site.

SB285 (Roem) Requires a locality, prior to any approval for the siting of a data center, to require disclosure of water and power usage at full build-out and perform a site assessment to examine the effect of the data center on water usage, the regional electric grid, and carbon emissions as well as any impacts on agricultural, historic, and cultural resources within the locality.
CONTINUED to 2025.

SB288 (Roem) Provides that any local government land use application required for the siting of a data center shall be approved only in accordance with certain notice and noise abatement requirements.

HB377 (Owen) Prohibits a locality from requiring a local traffic impact statement as a condition for approval of a rezoning application that involves a multifamily residential use of fewer than 50 residential units.

HB 878 (Bulova) Permits any local government to purchase development rights or receive a voluntary donation of development rights from an owner of real property to preserve the property for affordable housing.
CONTINUED to 2025.

SB652 (Sturtevant) Allows a locality to determine the timing of development by considering the adequacy of public facilities when making zoning decisions. The bill provides that a locality that makes a determination of inadequate facilities may reject or defer a rezoning application based solely on that determination.

SB669 (Stuart) Provides that any economic development commitments that are affirmatively stated in a public meeting shall be binding, reflected in any agreement with the locality, and enforceable through a judicial relief action.

SB715 (Sturtevant) Clarifies that a locality may schedule regular reviews of previous zoning decisions in order to determine whether provisions of the zoning ordinance (i) continue to meet the general purpose of promoting the health, safety, or general welfare of the public and (ii) are compatible with changes in land use patterns.
Bill was stricken by the patron.

SB721 (Mulchi) Makes several changes to local government land use approval processes. Significantly, the bill (i) prohibited use of the comprehensive plan as the basis, in whole or in part, for the disapproval of a site plan that is otherwise in conformity with duly adopted standards, ordinances, and statutes and (ii) allowed automatic approval of certain land use applications rather than a right to petition the circuit court, as provided under current law, if a locality does not approve or disapprove the application within the required timeframe. The bill also reduces from 12 months to four months the time within which a locality must initially act upon certain proposed zoning ordinance amendments and requires a locality to act on all such proposed amendments to the zoning ordinance or map that it has previously disapproved within 45 days after an amended proposal has been resubmitted for approval.

CONTINUED to 2025.

HB1446 (Coyner) Affordable housing assessment process.

Would fundamentally change the way that affordable housing is assessed at the local level. The proponents of the bill, the Virginia Housing Alliance, reached out to VML, VACO, and the Commissioner of the Revenue late in 2023, seeking changes to the current process of assessing properties. When it became clear that the proposed changes would have unknown consequences for localities, it was suggested that the issue be discussed during the 2024 interim, since it seemed the issue might be too complex to pursue. Unfortunately, the proponents felt the need to act now. As introduced, the bill required that local assessors only use an income approach for property operated as affordable housing as part of certain federal affordable housing programs. It was pointed out that prescribing the use of one methodology is inconsistent with generally accepted appraisal practices, which allow some flexibility to address circumstances where the income approach is not appropriate (for example, when property is under construction). Other substantive policy objections were raised by the Commissioners of the Revenue. CONTINUED to 2025 Session, and the subject matter was referred to the Housing Commission for study this summer.

HB1253 (McClure) Allows any locality that has adopted an affordable dwelling unit ordinance to require that a set percentage of the units built by a developer are compliant with the appropriate requirements of the American National Standards for Building and Facilities for Type A units or with any other standard adopted as part of the regulations promulgated by the U.S. Department of Housing and Urban Development providing accessibility and usability for persons with a physical disability.

CONTINUED to 2025.

HB900 (Srinivasan) / SB304 (Salim) Requires a locality to include in its zoning ordinances for residential zoning districts accessory dwelling units, or ADUs, as defined in the bill, as a permitted accessory use. The bill requires a person to seek a permit for an ADU from the locality, requires the locality to issue such permit if the person meets certain requirements enumerated in the bill, and restricts the fee for such permit to \$250 or less. The bill has a delayed effective date of July 1, 2025.

Bills were CONTINUED to 2025 and will be studied by a workgroup of the Housing Commission this summer.

TAXATION

BILLS THAT PASSED

HB 619 (Price) / SB 343 (Rouse) Military centered community zones; localities may establish, by ordinance, one or more zones.

Localities may establish, by ordinance, one or more military centered community zones, defined as a community that has a significant presence of military personnel living or working in the designated area and where such presence drives, or has the potential to drive, significant economic activity. The locality, or another political subdivision acting on its behalf, may offer unique benefits to businesses looking to locate within a zone for the purpose of serving the needs of the military personnel, including reduction of certain fees and taxes. Local governing bodies may enter into agreements for the payment of economic development incentive grants, provide for certain regulatory flexibility and incentives. Does not conflict with enterprise zones or preclude support under the Virginia Military Community Infrastructure Grant Program.

ENVIRONMENTAL, AGRICULTURAL, & UTILITIES

BILLS THAT PASSED

HB71 (Bulova) / SB372 (Ebbin) Extends the deadline for upgrading certain Combined Sewage Overflow (CSO) outfalls in the Chesapeake Bay Watershed from 7/1/2025 to 7/1/2026 in order for the Commonwealth to comply with federal mandates. This legislation provides localities with CSO capital projects additional time to meet state deadlines.

HB220 (Orrock) Authorizes sewage treatment, waterworks, and water treatment facilities to employ a licensed operator to remotely monitor facility operations provided the necessary technology to remotely monitor is in place. This bill provides greater flexibility to maintain operation of these facilities by licensed operators remotely while staying compliant with state regulations.

HB309 (Hope) Directs the Department of Forestry to establish a forest conservation plan in coordination with stakeholders to report on how to conserve and protect forests in the Commonwealth with a focus on identifying how to maintain and expand tree canopy.

HB953 (Lopez) Any locality may by ordinance create a permanent and perpetual fund to be known as the Local Environmental Impact Fund (the Fund). The Fund shall consist exclusively of appropriated local moneys and any gifts, donations, grants, bequests, and other funds received on its behalf.

➤ **VETOED BY THE GOVERNOR**

HB1053 (Knight) Establishes criteria for localities and state agencies to request that the Department of Wildlife Resources authorize the destruction and disposal of abandoned

watercraft under certain circumstances similar to those for acquiring the title for abandoned watercraft.

HB1085 (Rasoul) / SB243 (McPike). These bills require the owner or operator of a publicly owned treatment works to monitor PFAS levels on an applicable discharge monitoring report required by federal regulations. The bill requires DEQ, in certain circumstances, to develop a PFAS action plan to identify and address sources of certain PFAS detected in a public water system's raw water source, perform outreach efforts regarding PFAS contamination, report annually on its activities, and work with certain entities in developing its PFAS action plans. The bill requires certain facilities that manufacture or use PFAS to report the use of such chemicals to the Department and to monitor such PFAS at least quarterly. Also directs DEQ and VDH to jointly establish a PFAS Advisory Committee to assist with PFAS-related activities and to report annually to the Governor and the General Assembly.

HB1100 (Carr) Expands local ordinance authority to require the conservation of trees during the development process. Currently only localities in Planning District 8 have this authority. HB1100 expands this authority to all localities statewide.

➤ **VETOED BY THE GOVERNOR**

SB121 (Subramanyam) / HB459 (Sullivan) Expands Planning District 8's tree canopy preservation authority under Virginia Code § 15.2-961.1. The bill provides for the planting and replacement of trees during the development process by allowing a tree canopy fund to include *maintenance* of trees on public property and the *planting and maintenance* of trees on private property. Current authority is limited to the *planting* of trees on public property.

SB 121 passed out of the Senate 40-0. While it then hit major opposition in the House, narrowly passing 51-49, the bills were approved by the Governor and will take effect July 1, 2024.

ENVIRONMENTAL, AGRICULTURAL, & UTILITIES

BILLS THAT FAILED

HB3 (Wilt) / SB3 (Stuart) would have repealed the law where Virginia adopted the California emissions standards that phases in a mandate that by 2035, all new cars sold to be electric vehicles.

HB316 (Bulova) Established the Virginia Recycling Development Center to be charged with further developing recycling markets and established a fund for the center's operation.

SB673 (Stuart) Required that the State Water Control Board prioritize groundwater and surface water for human consumption and food production above all other uses in all permitting and regulatory processes. Failed in House Agriculture and Natural Resources Subcommittee.

SB697 (VanValkenburg) Prohibited localities from banning solar and energy storage projects. The bill was clear that localities did not have to approve every project, but every project would have to be considered and voted on.

SB567 (Deeds) / HB636 (Sullivan) Would have given priority to solar and wind energy production, transmission and storage facilities at the expense of local zoning authority. These bills would have eliminated local authority as it currently exists and conform local ordinances to a set of standards outlined in the bills. SB567 and HB636 would have given project developers a right to appeal project denials at the local level to the State Corporation Commission for solar, wind or energy storage projects. These bills would have significantly limited local land use authority.
CONTINUED to 2025.

HB1472 (Gardner) Would have created a water quality standard in the Code of Virginia that no water permit holder could meet and as a result expose water permittees to significant liability under the Clean Water Act.

FREEDOM OF INFORMATION ACT

BILLS THAT PASSED

HB894 (Bennett-Parker) / SB734 (Marsden) Electronic meetings.

Amends the number of all-virtual meetings that certain public bodies may hold from 2 or 25% to 2 or 50% per calendar year, whichever is greater. Public bodies must annually adopt policy before the public body uses remote participation or uses all-virtual public meetings. *Note: Local governing bodies, school boards, and planning commissions, etc. cannot hold all virtual public meetings.*

HB1040 (Bennett-Parker) / SB85 (Favola) Remote participation in meetings; definition of “caregiver.”

Allows a person with a disability or their caregiver to participate remotely as part of the public body in a meeting and count as part of a quorum. “Caregiver” means an adult who provides care for a person with a disability as defined in § 51.5-40.1. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the person with a disability for whom he is caring.

SB244 (McPike) / HB816 (Cherry) Electronic meetings during state of emergency; declarative of existing law.

States that meetings by electronic means due to a state of emergency are declarative of existing law since March 20, 2020, and validates actions taken at such meetings, as long as the notice and access requirements were met.

* [Berry v. Board of Supervisors of Fairfax County \(2023\).](#)

SB 36 (Locke) / HB 818 (Cherry) Virginia Freedom of Information Act; amends definition of meeting, provisions of Act.

Amends the definition of “meeting” as it relates to the Virginia FOIA, to clarify that a gathering of two or more members of a public body is not a meeting if there is no discussion or transaction of any public business by the members of the public body and that certain educational trainings are not meetings subject to FOIA. Also includes that the appointment of more than two members of a public body to another public body does not constitute a meeting of the first public body. “Public business” is defined as “any activity a public body has undertaken or proposes to undertake on behalf of the people it represents.”