

Governor's Proposed Amendments - Bills Considered by House Appropriations Committee

HB 350 / SB 676

Consolidation plan for the Virginia School for the Deaf and Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton

General Assembly Action: Approved legislation that requires the residential programs of the Virginia School for the Deaf and the Blind at Staunton and the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton to be modified. The legislation further authorizes the Department of General Services (i) to enter into a comprehensive agreement for the necessary renovations, additions, and new facility construction at the Staunton Campus under traditional procurement or the Public-Private Education Facilities and Infrastructure Act of 2002; (ii) to develop a plan for disposing of buildings and property located on both campuses that are no longer needed for special education purposes; and (iii) to work with the Cities of Staunton and Hampton and the Department of Historic Resources when considering proposals that may transfer ownership to or establish long-term leases with private entities. The legislation stipulates that the properties must be conveyed with appropriate historic easements at fair market value with the proceeds reverting to the general fund to offset the cost of construction of the new facility.

The legislation also authorizes the Governor to convey all real property, including all buildings and facilities, held in the name of the board of visitors of the Virginia School for the Deaf, Blind, and Multi-Disabled in Hampton to the New Horizons Regional Education Center, contingent on an agreement between the two entities on a facilities and land use plan. The legislation, as passed the General Assembly, stipulates that if the New Horizons Regional Education Center dissolves or ceases to exist, the property reverts to the Commonwealth.

A second enactment clause declares that the funding for the new facility will be funded in accordance with the general appropriation act passed by the 2006

Session of the General Assembly, which becomes law. House Bill 350 and Senate Bill 676 are identical.

Governor's Action: Proposes an amendment in the nature of a substitute which would do the following:

1. Allow for the continued operation of two schools in Staunton and Hampton
2. Require the reuse of those buildings or property and allow for consideration of leases to private entities but not transfer of ownership
3. No longer require the disposal of buildings or property that are not part of the special education purpose
4. No longer require that proceeds from any agreement with private entities be used to offset the cost of construction of new facilities.

HB 517 / SB 40

New College Institute

General Assembly Action: Approved legislation to establish the New College Institute as an educational institution in the area of Martinsville and Henry Counties. The New College Institute is charged with, among other things, expanding educational opportunities in the region by providing access to degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with private and public institutions of higher education, the public schools, and public and private sectors; and seeking to diversify the region's economy by engaging the resources of other institutions of higher education, public and private bodies, and organizations of the region and state.

The institute will be governed by a 12-member Board of Directors appointed as follows: seven members to be appointed by the Governor, three members to be appointed by the Speaker of the House of Delegates, and two members to be appointed by the Senate Committee on Rules. The Board would direct the development and focus of New College's curriculum. The curriculum would

include appropriate degree and nondegree programs offered by other educational institutions.

Governor's Action: Proposes an amendment which would:

1. Require the Speaker to make appointments in accordance with the proportional representation requirements in the Rules of the House of Delegates.
2. Modify term requirements for Governor's initial appointments.

Notes:

- No other educational entity of this type has these two modifications as proposed by the Governor.
- SB 40, which is identical to HB 517, was signed into law without these amendments on April 6, 2006.

HB 1502 / SB 675

Management Agreements with Certain Higher Education Institutions

General Assembly Action: Approved legislation that established three management agreements between the Commonwealth and the College of William and Mary, the University of Virginia and Virginia Tech as provided for under the Restructured Higher Education Financial and Administrative Operations Act that passed the 2005 Session of the General Assembly. The agreements provide for greater autonomy in capital building projects, financial administration, procurement and personnel.

The General Assembly actions modified the management agreements as proposed by clarifying the sunset provision, clarifying the method by which the three institutions will, if eligible, receive interest earnings on nongeneral balances, making several technical changes, and removing language related to "meet and confer" provisions.

Governor's Action: Proposes an amendment which would restore language similar to the "meet and confer" language removed by the General Assembly.

HB 468

Virginia Sickness and Disability Program

General Assembly Action: Approved legislation requested by the Virginia Retirement System Board of Trustees that clarifies that an employee receiving disability benefits under the Virginia Sickness and Disability Program must also apply for Social Security benefits, including reapplying and appealing any denials.

Governor's Action: Proposes an amendment in the nature of a substitute which conforms this legislation to House Bill 459 which was approved by the 2006 General Assembly Session and approved by the Governor.

Notes:

- Without these amendments, portions of HB 459 and 468 would be in conflict.
- The Virginia Retirement System has confirmed that the proposed change is necessary.

HB 1418

Line of Duty Act Program

General Assembly Action: Approved legislation that increased from \$75,000 to \$100,000 the amount of the death benefit that the beneficiary of a deceased person whose death occurred while in the line of duty is eligible to receive. This increase would be effective July 1, 2006.

Governor's Action: Proposes an amendment which would provide the increased death benefit to the beneficiary of a deceased person whose death occurred on or after January 1, 2006.

Sexually Violent Predator Bills

HB 1038

Civil Commitment of Sexually Violent Predators

General Assembly Action: Approved legislation to add to the list of offenses that qualify as sexually violent offenses for purposes of determining whether an individual is subject to the civil commitment process. The legislation adds the following qualifying offenses: abduction with intent to defile, abduction of a child less than 16 years of age for the purpose of prostitution, carnal knowledge of a child between 13 and 15 years of age, and carnal knowledge of minors in custody of the court or state. The requirement that the complaining witness be under 13 years of age for aggravated sexual battery to qualify is removed. A felony conviction for conspiracy to commit or attempt to commit any of the qualified offenses is added as a qualifying offense. Incompetent defendants will be reviewed by the Commitment Review Committee.

The legislation replaces the risk assessment instrument (Rapid Risk Assessment for Sexual Offender recidivism or RRASOR) with the Static-99, a more robust instrument with enhanced predictive accuracy, to be used to identify prisoners who will be forwarded to the Commitment Review Committee (CRC) for assessment. If the Director of the Department of Corrections (DOC) and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) agree that no specific scientifically validated instrument exists to measure the risk assessment of a prisoner, the prisoner may be evaluated by a psychiatrist or psychologist to determine if he should be forwarded to the CRC.

The legislation also sets forth factors for a court to consider in deciding whether to release a person on conditional release, such as living arrangements, availability of supervision, and access to treatment. A person on conditional release will be subject to mandatory GPS monitoring. The bill also adds abduction with intent to extort money or for immoral purposes to the felonies for which a presentence report is required. The provisions regarding qualifying offenses will be effective January 1, 2007, the remainder of the bill will be effective July 1, 2006.

Governor's Action: Proposes several amendments to the legislation, including the following:

1. Eliminates a requirement for DOC to identify certain prisoners scheduled for release from prison within 10 months who receive a score of four or more on the Static-99 and forward their names to the Commitment Review Committee, if the sexually violent offense mandating the prisoner's evaluation was for sexual battery where the complaining victim is less than 13 years of age and the initial warrant, indictment, information, presentment, petition, summons or other charging document was for rape, forcible sodomy, or sexual object penetration.
2. Makes it permissive for the court to consider certain factors such as, the nature and circumstances of the sexually violent offense committed, mental health history and treatment, response to treatment, potential employment and living arrangements, and other factors, when determining whether the sexually violent predator be fully committed or placed on conditional release, and when making a determination to place an individual who has been civilly committed on conditional release.
3. Adds to the duties of probation and parole officers, the power to provide intensive supervision services to persons placed on conditional release regardless of whether the person has any time remaining to serve on any criminal sentence, pursuant to any contract entered into between the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services.

HB 846

Penalties, Sex Crimes

General Assembly Action: Approved legislation that requires that for the crimes of abduction with intent to defile or abduction of a child under 16 for the purpose of concubinage or prostitution a minimum of a 40-year suspended sentence be imposed if the offender is sentenced to less than life imprisonment.

For the crimes of rape, forcible sodomy and object sexual penetration, if the victim is a child under the age of 13, the offender is more than three years older, and if the crime was done in the commission of, or subsequent to, a violation of certain abductions, certain burglaries, or aggravated malicious wounding, the proposal adds, in each statute, (a) a mandatory minimum penalty of 25 years and (b) the requirement that if the active sentence is less than life imprisonment, then

the court shall suspend a minimum of 40 years. In addition, under the proposed § 19.2-303, if any time is suspended, then the amount of suspended time must equal the statutory maximum and that the offender be placed on postrelease supervision for at least three years including electronic monitoring by Global Positioning System (GPS). Currently, none of these crimes have mandatory minimum sentences unless prosecuted under the provisions of § 18.2-67.5:3 for a subsequent offense, and there are no specific requirements regarding suspended time or postrelease supervision.

Governor's Action: Proposes an amendment which clarifies that an employer of a person or any person who procures volunteer activity by a person who violates the provisions prohibiting working on school property shall be immune from civil liability unless they knew the individual had been convicted of applicable offenses.

HB 984

Sex Offender and Crimes Against Minors Registry

General Assembly Action: Approved legislation that amends and adds a number of statutes related to the Sex Offender and Crimes Against Minors Registry (SOR) and certain sex crimes. Much of the bill addresses the mechanics of when the person required to register must provide information, who should collect that information, and when that information must be transmitted to the Department of State Police; the bill concentrates on reducing the time-lag for obtaining and processing SOR information. The bill requires that State Police physically verify or cause to be verified the initial registration or change of address within 30 days, and semi-annually thereafter. The bill also increases the availability of SOR information by expanding whose information is available over the Internet, and making it easier for school officials and other individuals to be regularly updated on those who register and reregister with SOR. Portions of the bill will have a delayed implementation; if adopted, some become effective on October 1, 2006, and others on January 1, 2007.

Governor's Action: Proposes amendments which would:

1. Clarify provisions to include both initial registration and re-registration of offenders to the Registry.

2. Authorize institutions of higher education with rolling or instantaneous admissions policies to report to the State Police consistent with guidelines developed in consultation with SCHEV and VCCS.
3. Eliminate delayed enactment (either October 1, 2006 or January 1, 2007) of a number of provisions in the legislation.

Other Public Safety Bills

HB 588

Penalties, Brandishing a Machete

General Assembly Action: Approved legislation that makes it illegal to point, hold, or brandish a machete in a public place with the intent to intimidate any person or group of persons. In addition, if the violation occurs upon the property of any public or private school or upon public property within 1,000 feet of such school property, it is a Class 6 felony.

Governor's Action: Proposes an amendment which would eliminate the provision that provides that a police officer in the performance of his duties, absent gross negligence, cannot be held civilly liable for injuries or death if the person was brandishing a machete in violation of law.

HB 1039

Penalties, Reckless Control of a Dog

General Assembly Action: Approved legislation that requires the control of dangerous dogs within a statewide mandated framework. The bill imposes criminal penalties ranging from a Class 2 misdemeanor to a Class 6 felony for violations that result in injury to a person or death to a cat or dog. The bill expands the authority to petition a court to find a dog dangerous to any law-enforcement officer and makes that petition mandatory. A Virginia Dangerous Dog Registry is created to be maintained by the State Veterinarian; any change in the status of a dangerous dog is to be promptly submitted in writing. Surrender of a dog that is subject of a pending action to animal control shall not be in lieu of prosecution.

Governor's Action: Proposes amendments which:

1. Clarify that local ordinances enacted consistent with this legislation cannot provide for a felony penalty for violation of those ordinances,
2. Eliminate duplicative language requiring annual registration, and
3. Conform this bill to House Bill 340.

HB 1066

Abused and Neglected Child, Sex Offenders

General Assembly Action: Approved legislation that provides that it is child abuse or neglect when a child is knowingly left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who the parent knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender, under circumstances that create a substantial risk of physical or mental injury.

Governor's Action: Proposes amendments which:

1. Clarify that the definition of abused or neglected child includes instances when a parent or other person responsible for a child's care knowingly leaves the child alone with a person who is not related and has been convicted of an offense against a minor that requires registration as a violent sexual offender.
2. Adds a second enactment clause regarding the fiscal impact of the legislation as determined by the Virginia Criminal Sentencing Commission.

Note:

- The Virginia Criminal Sentencing Commission could not determine whether the legislation results in a fiscal impact.

HB 1333

Penalties, Sex Offender Registry

General Assembly Action: Approved legislation that adds first offense child pornography possession and burglary with the intent to commit certain felony sex offenses as new Registry offenses if committed after July 1, 2006. In addition, criminal homicide in conjunction with contributing to the delinquency of a child or child abuse is also added as a new Registry offense. The legislation also makes a second or subsequent conviction for failing to register as a sex offender a Class 6 felony and a second or subsequent conviction of failing to register as a violent sex offender a Class 5 felony.

Governor's Action: Proposes an amendment which requires that the Appropriation Act approved by the 2006 General Assembly include funding to implement the provisions of the legislation.

Note:

An approved amendment to House Bill 5002 (Item 387 #5h) provides \$630,940 from the general fund to fund the provisions of House Bill 1333.

HB 1339

Penalties, Conviction of Third Peeping Offense

General Assembly Action: Approved legislation that makes it a Class 6 felony for a third or subsequent conviction for an offense under the peeping or spying section. The bill also requires that any person convicted within 10 years of three or more designated misdemeanors shall register under the Sex Offender and Crimes Against Minors Act

Governor's Action: Proposes an amendment which clarifies that the registration requirements under the Sex Offender and Crimes Against Minors Act apply to those offenses committed on or after July 1, 2006.