

Governor's Proposed Amendments to Bills Considered by the House Appropriations Committee or With the Appropriations Clause

HB 10 Judges; Retirement Allowance and Service After Retirement

General Assembly Action: Adopted legislation closing a loophole in the Code to cap the retirement benefits provided to Virginia's judges under the Judicial Retirement System (JRS) at 78% of a judge's compensation consistent with the legislative intent of the original Code Section. HB 10 caps an individual's benefit related to their service in JRS at 78% of their average final compensation regardless of which program they retire from, allowing that if a member has 5 or more years of service under another retirement system, such as regular VRS, they can receive up to 100% of their average final compensation provided the portion related to JRS is capped at 78%. The legislation also clarifies that a judge who does not retire under JRS would now be ineligible to become a senior judge which allows the retired judge to work on a part-time basis.

Governor's Action: The Governor's amendment strikes a Senate amendment which would make the provisions of HB 10 applicable to individuals who retired on or after July 1, 2013. The retroactive language is deleted due to concerns that it is unconstitutional and could result in litigation. The bill still includes an emergency clause which would make it effective immediately upon passage.

HB 133 Two-Year College Transfer Grant

General Assembly Action: Approved changes to the program to permit a student to enroll in a four-year institution by the spring following the award of an associate's degree and remain eligible for a grant under the program. Current law required a student to enroll in a four-year institution by the following fall to be eligible.

Governor's Action: The Governor has proposed an amendment to expand eligibility under the program by increasing the maximum Expected Family Contribution from \$8,000 to \$12,000, as calculated by the federal government using the family's financial information reported on the Free Application for Federal Student Aid (FAFSA).

Notes:

- The House of Delegates previously rejected this proposed amendment.
- The Appropriation Act has provided for expansion of eligibility as part of the budget decisions. However, by approving this amendment, that expansion would be codified and the fiscal impact of about \$1 million would become permanent as opposed to a part of the budgetary considerations.

HB 199
Local Government Expenditures or Reductions;
DLS to Identify Legislation Affecting

General Assembly Action: (HB 199 was not heard in Appropriations) Adopted legislation authorizing the Department of Planning and Budget and the Department of Taxation to forward to the Commission on Local Government bills which may require local fiscal estimates. The legislation requires the Division of Legislative Services to forward to the Commission any joint resolution which calls for a study of local government revenues or expenditures. The bill was not referred to Appropriations but the fiscal impact statement estimates one-time systems cost of \$28,000 to \$34,000 GF and additional temporary staffing cost of between \$6,700 and \$14,000 GF each year for the Department of Housing and Community Development. Funding was included in both the House and Senate Budgets.

Governor's Action: The Governor's amendment inserts an enactment clause which makes the provisions of the bill contingent on funding being included in the budget.

HB 272
Judicial Performance Evaluation Program;
Evaluation Reports on Justices and Judges

General Assembly Action: Adopted legislation reinstating the judicial performance evaluation program. The provisions of the legislation specifically exempted judicial evaluations from the Freedom of Information Act, changed the date of the annual report from the Supreme Court to the General Assembly from September 1 to December 1 each year, and required an interim evaluation during the first half of a judge's term in addition to the current requirement of an evaluation during the last year of the term. The introduced budget included \$50,000 GF in FY 2015 and \$240,000 GF in FY 2016 to reinstate the program. The \$50,000 was for start-up cost and is not sufficient to implement the program in FY 2015. The House budget provided an additional \$240,000 GF in FY 2015 to reinstate the program in FY 2015 (the Senate Budget accepted the funding in the introduced budget but did not include any additional funding in FY 2015).

Governor's Action: The Governor's amendment inserts an enactment clause which makes the provisions of the bill contingent on funding being included in the budget.

HB 375/ SB 150
Patent Infringement; Assertions Made in Bad Faith, Exemptions, Penalties

General Assembly Action: (Neither HB 375 nor SB 150 were not heard in Appropriations) Adopted legislation creating a "cause for action" if a person makes a bad faith assertion of patent infringement. The legislation authorizes the Attorney General to issue a civil investigative demand if there is reasonable cause to believe a bad faith assertion has been made. The fiscal impact statement estimates that the Office of the Attorney General would require \$143,179 GF each year, and 2 FTEs,

from this legislation. Funding was not included in either the House or Senate budget for this legislation.

Governor's Action: The Governor's amendment inserts an enactment clause which makes the provisions of the bill contingent on funding being included in the budget.

HB 606/ SB 443

Judges; Maximum Number in Circuit, General District, and Juvenile Courts, etc.

General Assembly Action: Adopted legislation amending the sections of the Code which specify the number of authorized circuit and district court judgeships. The legislation increases the number of judgeships authorized in the Code from 402 to 429. The legislation inserts language in these sections of the Code clarifying that the tables in the Code represent the maximum number of authorized judgeships, not the total number of judgeships that are funded.

Governor's Action: The Governor's amendment inserts an enactment clause which makes the provisions of the bill contingent on funding being included in the budget. Since this legislation simply establishes the maximum number of judgeships authorized by circuit and district, the funding level required from the enactment clause is unclear.

HB 1009

Workforce Development

General Assembly Action: Approved legislation that recasts the Virginia Workforce Council as the Virginia Board of Workforce Development. The legislation authorizes the Governor to appoint a Chief Workforce Development Advisor who shall serve as lead staff to the Board. The legislation also requires the Office of the Chancellor of the Virginia Community College System to provide staff support to accomplish the federally mandated requirements of the federal Workforce Investment Act with staff support for the other duties and functions of the Board provided by personnel from the Offices of the Secretaries of Education and Commerce and Trade pursuant to a memorandum of agreement. The legislation also decreases the membership from 31 to 26 and authorizes the Governor to select his designee from among the cabinet-level officials appointed to the Board. The legislation also directs the establishment of an executive committee of the Board, which shall establish meeting agendas, approve reports to the Governor, and respond to certain urgent issues between scheduled Board meetings. The Board is also authorized to establish such other committees as it deems necessary, including (i) a committee to accomplish the federally mandated requirements of the WIA, (ii) an advanced technology committee, (iii) a performance and accountability committee, and (iv) a military transition assistance committee. The legislation also establishes the Advanced Manufacturing Advisory Council to advise the Governor, General Assembly, and Board and to coordinate services, resources, and requests among agencies and institutions of higher education involved or requesting to be involved in the delivery of education and advanced manufacturing workforce training. Finally, the measure repeals the Advantage Virginia Incentive Program, Fund, and Foundation.

Governor's Action: The Governor proposes two separate amendments. First, the Governor strikes language related to the establishment of the Advanced Manufacturing Advisory Council. Second, the Governor creates a study and directs the Joint Legislative Audit Commission to review the need for and potential role of an Advanced Manufacturing Advisory Council.

Notes:

- HR 65, Section III, Introduction of Business, Rule 37 states that “In addition, no bill or resolution introduced for a purpose other than to direct or request a study shall be amended for the purpose of directing or requesting a study unless authorized by unanimous consent of the members of the House.”
- There are other issues associated with the proposed study amendment:
 - The Executive is directing the scope of work by a legislative agency;
 - The Executive is amending the parameters of a joint resolution which Governors are not authorized to approve, amend or veto; and,
 - Amendments to the budget bill would significantly expand the scope of work for HJR 688 making further changes potentially a logistical problem for JLARC to complete its work on time.
- Allowing the executive to direct the work of a legislative agency directly sets a unique, albeit questionable, precedent.

HB 1191

Annual Report on Effectiveness of Economic Development Incentives by Secretary of Commerce and Trade

General Assembly Action: Adopted legislation which requires the Secretary of Commerce and Trade to submit an annual report to the Chairs of the Senate Finance and the House Appropriations and Finance Committees on the effectiveness of economic development incentive programs administered by the Commonwealth. The report would cover a three-year period. Certain state agencies administering economic development programs would be required to report to the Secretary the amount of grants made available under the program, number of jobs created, actual average wages paid, amount of capital investment, and similar data.

Governor's Action: The Governor's amendment inserts an enactment clause which makes the provisions of the bill contingent on funding being included in the budget.

Notes:

- Both the House and the Senate questioned the reported fiscal impact of the legislation and determined that additional funding was not needed to support the reporting activity.
- Existing budget language requires the VEDP to make a similar but less comprehensive report on incentives. Agreement had been reached that the existing requirement would be replaced so that the newly adopted legislation would not result in duplication of effort nor would it substantially increase the workload of the agency. The VEDP had requested \$100,000 each year and a full-time position to collect data on incentives and prepare the report.

SB 14
Crimes Against Nature, Clarification of Provisions, Penalty

General Assembly Action: Approved legislation prohibiting additional sex acts with minors. This legislation included an emergency clause.

Governor's Action: The Governor has proposed a substitute increasing the existing \$10 fee assessed against all misdemeanor (including traffic infractions) and felony convictions for the Internet Crimes Against Children Fund to \$15. The proposed substitute makes no changes to the underlying legislation adopted by the General Assembly.

SB 282
Virginia Fire Services Board; Meetings

General Assembly Action: (SB 282 was not heard in Appropriations) Approved legislation increasing the number of meetings of the Virginia Fire Services Board from four meetings per year to six meetings per year. The Senate budget does not include funding for this legislation.

Governor's Action: The Governor's amendment inserts an enactment clause which makes the provisions of this bill contingent on funding being included in the budget. However, it should be noted that the corresponding identical legislation, House Bill 561, was signed into law by the Governor without the addition of any enactment clause.