

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

HB4/SB36 Casino Regulation

General Assembly Action: Adopted legislation authorizing casino gaming establishments to be established in Portsmouth, Richmond, Norfolk, Danville, and Bristol. Casinos would be regulated by the Virginia Lottery Board.

Governor's Action: The Governor's amendment makes several changes to HB4/SB36:

- Gaming Proceeds Fund provisions are amended to provide that any revenues remaining in the account after required payments to the cities and specified state programs shall remain in the Gaming Proceeds Fund until the General Assembly allocates such funds for school construction programs. The enrolled bill would have annually appropriated these funds as general fund revenues.
- Provisions in the voluntary exclusion program for problem gamblers are expanded to include voluntary exclusion from other forms of gambling, including: Virginia Lottery subscription programs, sports betting, fantasy contests, and charitable gaming. The amendments also establish voluntary exclusion terms of two years, five years, and lifetime.
- Ambiguous language authorizing the Virginia Lottery to require fingerprint and background checks of anyone it deems "an active participant in the casino gaming activities" is deleted. The amendment does not eliminate the Lottery Board's authority to require checks for casino employees and concessionaires.

Notes:

- The bill provides that gross receipts for casino operators shall be taxed in three brackets, from 18 to 30 percent. About 30 percent of the tax revenues will be provided to the city where the casino is located. One percent is reserved for the Virginia Indigenous People's Trust Fund (if the casino is operated by a tribe), 0.8 percent is reserved for the Problem Gambling Treatment and Support Fund, and 0.2 percent is reserved for the Family and Children's Trust Fund. The remaining funds, about 70 percent, would be reserved for school construction.

HB 22

Virginia Community Flood Preparedness Fund

General Assembly Action: Approved legislation reconstituting the Virginia Shoreline Resiliency Fund administered by VDEM as the Virginia Community Flood Preparedness Fund administered by the Department of Conservation and Recreation. The Fund was established as a special non-reverting fund used to provide loans for projects and studies in localities subject to recurrent flooding. The legislation further stipulates that priority should be given to community-scale hazard mitigation activities, and that localities may forgive the principal of loans for projects in low-income geographical areas.

Governor's Action: The Governor's proposed amendments make several technical and clarifying amendments regarding the deposit and use of proceeds for the Community Flood Preparedness Fund. Most substantively, the recommendation inserts a new paragraph C which would authorize the Virginia Resources Authority to make loans made from the Fund, with the stipulation that any net proceeds from such sales remain in the Fund. Identical changes have been proposed by the Governor for HB 981 and SB 1027.

HB 395 / SB 7

Minimum Wage

General Assembly Action: Approved legislation to increase the minimum wage from \$7.25 per hour to \$9.50 per hour effective January 1, 2021; to \$11.00 per hour effective January 1, 2022; to \$12.00 per hour effective January 1, 2023; to \$13.50 per hour effective January 1, 2025; and to \$15.00 per hour effective January 1, 2026. For 2027 and subsequent years, the state's minimum wage would be set to reflect increases in the Consumer Price Index.

The increases scheduled for 2025 and 2026 require reenactment by the General Assembly prior to July 1, 2024. If the provisions of the bill related the increases for 2025 and 2026, are not reenacted by the General Assembly than the minimum wage will be adjusted to the reflect increases in the Consumer Price Index.

Starting in January 2022, the bill calls for the Virginia Department of Housing and Community Development, the Virginia Economic Development Partnership, and the Virginia Employment Commission to review the feasibility and impact of instituting a regional minimum wage in Virginia. The review shall be submitted to the Division of Legislative Automated Systems no later than December 1, 2023.

Governor's Action: The Governor's amendments to the bill delay the timing of the first increase of the state's minimum wage to \$9.50 per hour by four months. Employers would be required to pay wages of \$9.50 per hour beginning May 1, 2021 as opposed to January 1, 2021.

HB 438/SB 561

Workers' Compensation – Post-Traumatic Stress Disorder, Law-Enforcement Officers and Firefighters.

General Assembly Action: Approved legislation which created a new section of the Code § 65.2-107 establishing the guidelines for the coverage of post-traumatic stress disorder for law enforcement officers and firefighters under the Workers Compensation Act.

Governor's Action: The Governor's proposed amendment also amends section § 9.1-102 of the Code to require the Department of Criminal Justice Services to establish compulsory training standards to be included in the basic training of law-enforcement officers for recognizing and managing stress, self-care techniques, and resiliency.

HB 582 / SB 939

Collective Bargaining

General Assembly Action: Approved legislation to permit counties, cities, and towns to adopt local ordinances, authorizing them to: recognize any labor union or other employee association as a bargaining agent of any public officers or employees, except for Constitutional officers and their employees, and public school employees; and collectively bargain or enter into any collective bargaining contract with any such union or association related to employment. The bill maintains the prohibition on public employee strikes. Additionally, the bill requires a local governing body within 120 days of receiving a certification from a majority of public employees in a unit considered by the employees as an appropriate for collective bargaining, to vote on a resolution for collective bargaining by local employees.

Governor's Action: The Governor's amendment delays implementation of the bill to May 1, 2021 from July 1, 2020.

HB 704

Definition of Environmental Justice and Establishment of Promoting Environmental Justice as the Policy of the Commonwealth

General Assembly Action: Approved legislation defining environmental justice as “the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation or enforcement of any environmental law, regulation, or policy.” The legislation further establishes that it is the policy of the Commonwealth to promote environmental justice and to ensure that it is carried out through the Commonwealth.

Governor's Action: The Governor’s proposed amendment clarifies that the policy of the Commonwealth to promote environmental justice would have a focus on environmental justice communities and fence-line communities.

HB 833 / SB 8

Prevailing Wage

General Assembly Action: Adopted legislation that requires contractors and subcontractors under any public contract with a state agency, or with a locality that has adopted a relevant ordinance, for public works to pay wages, salaries, and benefits to any mechanic, laborer, or worker hired to perform services in connection with the contract for public works at the prevailing wage rate. The provisions of the bill do not apply to public works contracts less than \$250,000. The Commissioner of the Department of Labor and Industry is required to determine the prevailing wage rate for such public contracts on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the federal Davis-Bacon Act.

Governor's Action: The Governor’s amendments adjusts the definition of prevailing wage rate and delays implementation of the bill to May 1, 2021 from July 1, 2020. The definition of prevailing wage rate proposed by the Governor removes language aligning wages to those within planning district commissions where state agencies are located.

HB 881/SB 971

Games of Skill Machines and COVID-19 Relief Fund

General Assembly Action: Adopted legislation to prohibit games of skill machines (gray machines), effective July 1, 2020.

Governor's Action: The proposed amendment in the nature of a substitute would:

- Establish the COVID-19 Relief Fund, effective July 1, 2020.
- Permit gray machines in ABC retail licensed establishments or truck stops as of July 1, 2020 to continue to operate until July 1, 2021.
- Establish a \$1,200 per month tax on each gray machine, which would be in effect between July 1, 2020 and the proposed prohibition date of July 1, 2021. Of the revenues collected:
 - 84% would be deposited into the COVID-19 Relief Fund;
 - 12% would be distributed to the locality where the gray machine is located;
 - 2% would be distributed to the Problem Gambling Treatment and Support Fund established by the 2020 General Assembly; and
 - 2% would be provided to the Virginia Alcohol Beverage Control Authority administrative costs.
- Require gray machine operators to provide monthly reports to ABC detailing the number and location of machines as well as the amount wagered and winnings awarded. A monthly compilation would be submitted to the Governor and Chairs of the Money Committees.
- Establish civil penalties of \$25,000 to \$50,000 for gray machine operators who violate provisions of the bill, which would be deposited to the COVID-19 Relief Fund.

Notes:

- In conjunction with the prohibition of gray machines, lottery proceeds were expected to increase \$40.0 million annually. This increase is reflected in HB 30, as adopted; however, the Governor has not proposed a corresponding amendment to adjust lottery proceeds based on the legalization of gray machines. If lottery proceeds estimates are not met, Infrastructure and Operations Per-Pupil Payments (previously known as Supplemental Lottery Per Pupil Payments) to school divisions will likely need to be prorated to address any shortfall.
- This bill was not referred to the House Appropriations Committee; however, this analysis is provided because Amendment 23 to House Bill 29 and Amendment 123 to House Bill 30 authorize the Governor to expend COVID-19 Relief Funds.

HB 896 / SB 384

Sports Betting

General Assembly Action: Adopted legislation that legalizes sports betting in Virginia, and directs the Virginia Lottery to regulate and oversee sports betting operations in Virginia.

Before administering a sports betting operation, an entity is required to apply for a three-year permit and pay a nonrefundable application fee of \$250,000. Permit holders must apply for renewal of a permit every three years, which includes a nonrefundable renewal fee of \$200,000. The Director of the Lottery may issue from four to 12 permits at one time with a preference for certain major league sports franchises and certain casino operators. The fees collected from operators will support the ongoing regulatory and oversight activities by the Virginia Lottery for Sports Betting Operations.

The bill prohibits betting on Virginia college sports and youth sports and prohibits proposition bets on all college sports. The bill prohibits betting by Lottery employees, permit holders and certain related persons, athletes and coaches with respect to events in their league, and persons under age 21. The penalty for engaging in prohibited betting is a Class 1 misdemeanor.

The bill imposes a 15 percent tax on a permit holder's adjusted gross revenue, defined in the bill. The bill authorizes permit holders to carry over and deduct net losses for up to 12 months. Revenue collected from Sports Betting Operations is directed to the Problem Gambling Treatment and Support Fund (2.5 percent) and the general fund (97.5 percent).

Governor's Action: The Governor's amendments to the bill are mostly technical in nature and:

- adds motor sports facilities to exemptions regarding cooperative marketing,
- clarifies that the prohibition on college and youth sports betting does not prohibit betting in tournaments or multigame events in which a youth sports or Virginia college sports team participates,
- reduces the fee for background investigations to \$50,000 from \$250,000 and provides a cost recovery mechanism for Lottery for any background check costs over \$50,000,
- adds a \$250,000 nonrefundable fee prior the issuance of a permit,
- extends the application determination deadline from 60 to 90 days by the Director
- gives the Director 60 days to make a determination on the renewal of a permit
- allows voluntary exclusion information to be shared across corporate enterprises of permit holders
- adds the establishment of a program for prevention and treatment to the duties of the Commissioner of the Department of Behavioral Health and Development Services
- allows affiliate, partners, or subcontractors to submit an application on behalf of casino operators or a major sports league franchise
- raises the fine for sports operators found in violation of Article 2 to \$1,000 per day

- excludes the personal information of individuals reporting prohibited conduct to Lottery from mandatory disclosure and FIOA requirements
- allows sports operators to operate under a single brand different from their own in Virginia
- changes some of the internal roles and responsibilities for the regulatory activities associated with sports betting at the Lottery from the Director to the Board to the Department and vice versa
- adds language that permit holders maintain cash reserves in amounts established by the Lottery Board
- Requires permit holders to report any criminal proceedings filed against them to Lottery
- Adds definitions of “motor sports facility” and “principal” to Article 2

In the amendments to bill submitted by the Governor, amendments to lines 1017, 1018, and 1019, respectively are duplicative of each other.

HB 981

Clean Energy and Community Flood Preparedness Act

General Assembly Action: Approved legislation that authorized the Department of Environmental Quality to implement final carbon trading regulations to establish a carbon dioxide cap and trade system compliant with the Regional Greenhouse Gas Initiative model rule. The legislation directed that proceeds from the auction be directed to the Community Flood Preparedness Fund (45%) administered by the Department of Conservation and Recreation, and for low income energy efficiency projects (50%) to be administered by the Department of Housing and Community Development.

Governor's Action: The Governor’s proposed amendments make several technical and clarifying amendments regarding the deposit and use of proceeds for the Community Flood Preparedness Fund. Most substantively, the recommendation inserts a new paragraph C which would authorize the Virginia Resources Authority to make loans from the Fund, with the stipulation that any net proceeds from such sales remain in the Fund. Identical changes have been proposed by the governor for HB 22 and SB 1027.

HB 1002

Agriculture and Forestry Industries Development Planning Grant Program

General Assembly Action: Approved legislation codifying the ability of VDACS to provide grants from the Agriculture and Forestry Industries Development Planning Grant Program to localities for local and regional planning activities related to agriculture and forestry projects.

Governor's Action: The Governor's proposed amendment would insert an emergency clause to the bill, making the bill go into force from its passage.

HB 1090

Immunizations for School Children

General Assembly Action: Approved legislation changing the minimum vaccination requirements for school attendance, or attendance at a childcare center, nursery school, family day care home, or developmental center. The bill adds the following vaccines to the minimum requirements: two (instead of one) properly spaced doses of varicella vaccine, human papillomavirus (HPV) vaccine for boys, rotavirus vaccine, hepatitis A vaccine, and meningococcal conjugate vaccine. The legislation also requires the State Board of Health to amend regulations for the immunization of school children as necessary from time to time to maintain conformity with evidence-based, routinely recommended vaccinations for children and to provide for a 60-day public comment period prior to the adoption of the regulations. In addition, it directs the Department of Health and the Department of Education to jointly review immunization requirements in the Code of Virginia and report to the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health on the effectiveness of the required vaccination program in promoting public health by December 1, 2021.

Governor's Action: The Governor's proposed amendment changes the required number of doses of the HPV vaccine from three to two and adds a third enactment delaying the effective date of the legislation until July 1, 2021.

HB 1211/SB 34

Driver Privilege Cards; Definitions, Effective Date, Report

General Assembly Action: Approved legislation which authorizes the Department of Motor Vehicles to issue new driver privilege cards to individuals regardless of legal presence.

Governor's Action: The Governor has proposed 15 line amendments to the legislation all of which are technical in nature.

HB 1414/SB 890

Omnibus Transportation Reform

General Assembly Action: Approved the omnibus transportation reform legislation.

Governor's Action: The Governor has proposed 8 line amendments to the legislation. The majority of the line amendments are technical in nature but amendments # 6 and #8 do make substantive changes. Amendment #6 reduces the proposed gas tax for fiscal year 2021 from 21.2 cents per gallon to 20.2 cents per gallon. Amendment #8 provides a delayed effective date of May 1, 2021 for the sections of the legislation related on the tax changes for the grantors tax and transient occupancy tax for Northern Virginia transportation funding.

HB 1452

Temporary Detention for Observation and Treatment

General Assembly Action: Approved legislation to clarify that a person can be subject to a temporary detention order for observation and treatment related to intoxication where the person is located, upon a finding that (i) probable cause exists to believe the person is incapable of making or communicating an informed decision regarding treatment due to intoxication and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the individual resulting from such intoxication. The legislation limits the duration of such temporary detention to 24 hours. The legislation provides that a person subject to emergency custody due to a mental illness shall remain in custody until (a) a temporary detention order is issued in accordance with § 37.2-809; (b) an order for temporary detention for observation, testing, or treatment is entered in accordance with § 37.2-1104, ending law-enforcement custody; (c) the person is released; or (d) the emergency custody order expires. The legislation also directs the Department of Behavioral Health and Developmental Services to convene a work group to develop standard policies and procedures regarding medical temporary detention orders by July 1, 2020.

Governor's Action: The Governor's proposed amendment changes the date on which the work group is to complete its work from July 1, 2020 to December 1, 2020.

HB 1541

Central Virginia Transportation Authority

General Assembly Action: Approved legislation creating the Central Virginia Transportation Authority, composed of the counties and cities located in Planning District 15. The Authority will administer transportation funding generated through the imposition of an additional regional 0.7 percent sales and use tax and a 2.1 percent wholesale gas tax. The bill is largely modeled after the Hampton Roads Transportation Accountability Commission and provides the Richmond area with the identical tax rates provided in Hampton Roads.

Governor's Action: The Governor has proposed 9 line amendments to the legislation. Most of the amendments are technical in nature. Amendment #7 indexes the minimum funding provided by localities to inflation starting in 2023. Amendment #9 provides a delayed effective date to October 1, 2020 for the sections of the legislation increasing the regional taxes.

HB 1726

Hampton Roads Regional Transit Program and Fund

General Assembly Action: Approved legislation creates the Hampton Roads Regional Transit Program. The program shall be supported from a \$20 million annual distribution from state recordation tax collections, a new 1% transient occupancy tax in the Hampton Road region, and an additional grantors tax within the Hampton Roads Region.

Governor's Action: The Governor has proposed 5 line amendments to the legislation. The first 3 amendments are technical in nature. Amendment #4 adds a requirement that disbursement of funds requires 2/3's approval from the Commission. Amendment #5 provides a delayed effective date of May 1, 2021 for the section authorizing the transient occupancy tax.

SB 2

Decriminalization of Simple Possession of Marijuana

General Assembly Action: Approved legislation decriminalizing the simple possession of marijuana, making violation subject to a summons of the same form as a uniform summons for motor vehicle law violations, and that a person's criminal history record not include records for such violations.

Governor's Action: The Governor's proposed amendments would (i) provide that if an individual is if a violation of simple possession of marijuana occurs while an individual is operating a commercial vehicle, the violation shall be reported to the Department of Motor Vehicles and be included on the individual's driving record; (ii) removes the requirement that process for appeal and trial of any violation shall be the same provided by law for misdemeanors; (iii) provides access to Central Criminal Records Exchange records of simple marijuana possession to employees of the Department of Motor Vehicles in order to comply with Federal Motor Carrier Safety Administration regulations; (iv) removes language requiring the revocation of drivers licenses by the Department of Motor Vehicles for certain types of possession convictions; (v) removes the second and third enactment clauses of the bill, and (vi) and amends the last enactment clause to provide an additional year for the workgroup specified to complete its study of the impact of legalizing the sale and personal use of marijuana in Virginia.

SB 735

Peer-to-Peer Vehicle Sharing Platforms

General Assembly Action: Approved legislation which sets out requirements and policies within the Code regarding Peer to Peer Vehicle Sharing. The legislation sets out policies regarding insurance coverage, recordkeeping, disclosure, and safety recall requirements. The legislation also sets out a Peer-to-Peer Vehicle Sharing Tax at a rate of 6.5% for individuals with no more than 10 vehicles (in FY 2021) and 7.0% thereafter. If an individual has more than 10 vehicles registered they are taxed under the rates of the motor vehicle rental tax.

Governor's Action: The Governor's proposed amendment provides for a delayed effective date of October 1, 2020 for portion of the legislation that establishes the Virginia Motor Vehicle Rental and Peer-to-Peer Vehicle Sharing Tax.

SB 764 (HB 879)

Revises the Medical Care Facilities Certificate of Public Need Program

General Assembly Action: Approved legislation revises the Medical Care Facilities Certificate of Public Need Program. The legislation (i) removes from the list of reviewable medical care facilities specialized centers or clinics or that portion of a physician's office developed for the provision of lithotripsy, magnetic source imaging, or nuclear medicine imaging; (ii) removes from the definition of project introduction into an existing medical care facility of any new lithotripsy, magnetic source imaging, or obstetrical service that the facility has never provided or has not provided in the previous 12 months and the addition by an existing medical care facility of any medical equipment for the provision of lithotripsy and magnetic source imaging; (iii) creates a new process for registration of projects exempted from the definition of project by the bill; (iv) renames the State Medical Facilities Plan as the State Health Services Plan and establishes a State Health Services Plan task force to provide recommendations related to the content of the State Health Services Plan; (v) clarifies the content of the application for a certificate; (vi) reduces the timeline for a person to be made party to the case for good cause from 80 calendar days to four days following completion of the review and submission of recommendations related to an application; (vii) requires the Commissioner of Health to condition issuance of a certificate upon the agreement of the applicant to provide care to individuals who are eligible for benefits under Title XVIII of the Social Security Act (42 U.S.C. § 1395 et seq.), Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), and 10 U.S.C. § 1071 et seq. and permits the Commissioner to condition the issuance of a certificate on the agreement of the applicant to provide specialty medical services in addition to existing options for conditioning certificates; (viii) requires every certificate holder to develop a financial assistance policy that includes specific eligibility criteria and procedures for applying for charity care, which shall be provided to a patient at the time of admission or discharge or at the time services are provided, included with any billing statements sent to uninsured patients, posted conspicuously in public areas of the medical care facility for which the certificate was issued and posted on a website maintained by the certificate holder; (ix) eliminates the requirement that a person willfully fail, refuse, or neglect to comply with a plan of correction to be subject to a civil penalty so that any failure, refusal, or neglecting to comply with a plan of correction may subject the person to a civil penalty; and (x) provides that the Commissioner may consider any changes in the circumstances of the certificate holder resulting from changes in the financing or delivery of health care services, including changes to the Commonwealth's program of medical assistance services, and any other specific circumstances of the certificate holder when determining whether conditions imposed on a certificate continue to be appropriate.

The bill also (a) directs the Department of Health to develop recommendations to reduce the duration of the average review cycle for applications for certificates of public need to not more than 120 days and to report on its recommendations to the Governor and the General Assembly no later than December 1, 2020, and (b) directs the Secretary of Health and Human Resources to implement a system to ensure that data needed to evaluate whether an application for a certificate is consistent with the State Health Services Plan and is timely and reliable; to make all public

records pertaining to applications for certificates and the review process available in real time in a searchable, digital format online; to make an inventory of capacity authorized by certificates of public need, both operational and not yet operational, available in a digital format online; and to establish a public education and outreach program designed to improve public awareness of the certificate of public need process and the public's role in such process by January 1, 2021. The provisions of the legislation are contingent on funding in a general appropriation act.

Governor's Action: The Governor's proposed amendments make technical changes to clarify the list of facilities subject to COPN. It delays the date by which the State Health Services Plan Task Force must complete the State Plan from November 1, 2020 to November 1, 2022. It mitigates the fiscal impact of the bill to mirror actions taken by the Appropriations Committee on HB 879 (Sickles) to eliminate requirements to file applications electronically and to make all public records pertaining to applications for certificates and the review process available in real time in a searchable, digital format online. The amendments also delay the date by which the Secretary of Health and Human Resources to implement a system to ensure the data needed to evaluate applications for COPN are consistent with the State Plan from January 1, 2021 to January 1, 2023.

SB 891
Animal Welfare Regulations

General Assembly Action: Approved legislation requiring the Board of Agriculture and Consumer Services to adopt regulations governing the keeping of dogs and cats by pet shops, and relating to inspections of private animal shelters.

Governor's Action: The Governor's proposed amendment would (i) remove the exemption in the bill for individuals who breed animals regulated under federal law as a research animal; (ii) delay the adoption of regulations by the Board by one year, until July 1, 2022; (iii) increase the registration fee to \$250 for non-profit or governmental entities required to register, rather than the \$25 required by the bill as adopted; and (iv) removes language saying that any such regulations for the care and treatment of animals also apply to areas where the general public interacts with animals being exhibited.

SB 1027
Clean Energy and Community Flood Preparedness Act

General Assembly Action: Approved legislation that authorized the Department of Environmental Quality to implement final carbon trading regulations to establish a carbon dioxide cap and trade system compliant with the Regional Greenhouse Gas Initiative model rule. The legislation directed that proceeds from the auction be directed to the Community Flood Preparedness Fund (45%) administered by the Department of Conservation and Recreation, and for low income energy efficiency projects (50%) to be administered by the Department of Housing and Community Development.

Governor's Action: The Governor's proposed amendments make several technical and clarifying amendments regarding the deposit and use of proceeds for the Community Flood Preparedness Fund. Most substantively, the recommendation inserts a new paragraph C which would authorize the Virginia Resources Authority the ability to sell loans made from the Fund, with the stipulation that any net proceeds from such sales remain in the Fund. Identical changes have been proposed by the governor for HB 22 and HB 981.