

# 2022 GENERAL ASSEMBLY SUMMARY



*Thomas  
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Planning District Commission

P. O. Box 1505, Charlottesville, VA 22902

**Representing the Local Governments of:**

**Albemarle County  
City of Charlottesville  
Fluvanna County  
Greene County  
Louisa County  
Nelson County**

**Ned Gallaway, *Chair***  
**Christine Jacobs, *Executive Director***  
**David Blount, *Director of Legislative Services***

**June 2022**

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# OVERVIEW

The 2022 General Assembly finished its work on March 12, but without completing action on a budget plan for the remainder of FY22 and the biennial budget for FY23/24. A special session of the legislature was called, yet budget negotiators remained stalled for weeks and months, primarily over the amount and forms of state tax relief to be provided. Finally, a compromise deal was adopted June 1, gubernatorial amendments considered in mid-June, followed by a prompt signature of the biennial budget bill by the governor on June 22.

Meanwhile, the legislature passed more than 850 bills during the regular and special sessions that that were sent to the governor for his action. This document summarizes approved legislation impacting and/or of interest to local governments.

## APPROVED LEGISLATION

**Following are highlights of approved legislation in the areas of agriculture/environment, education, finance, human services, land use, local government, public safety and transportation. A number of other bill topics are included under the “Miscellaneous” section. Bills take effect July 1, unless otherwise noted.**

### **Agriculture and Environment**

**HB 49** (*Fariss*) adds an additional 37 miles of the Middle James River (20 miles was designated in 2020) as a Virginia scenic river for a total of 57 miles to now be designated in this region.

**HB 180** (*Bloxom*) and **SB 184** (*Ruff*) create the Forest Sustainability Fund, with localities that have adopted a use value assessment and program to be eligible to apply for an allocation from the fund to support public education about, or projects related to, outdoor recreation or forest conservation.

**HB 206** (*Webert*) requires, as a condition for a permit by rule for a small energy project, that if the Department of Environmental Quality (DEQ) determines that there will be a significant adverse impact on wildlife, historic resources, prime agricultural soils, or forest lands, an applicant also must submit a mitigation plan with a 45-day public comment period.

**HB 323** (*Rasoul*) increases from \$25,000 to \$50,000 the amount of a grant (from the Local Food and Farming Infrastructure Grant Program) that may be made to a political subdivision for projects that support local food production and sustainable agriculture.

**HB 1297** (*Webert*) directs the State Water Control Board to consider existing interjurisdictional arrangements in designating water supply regional planning areas and to provide a mechanism for a locality to request a change of its designated planning area to an adjoining planning area.

**HB 1309** (*Bulova*) and **SB 756** (*Lewis*) create the Resilient Virginia Revolving Fund to be used for loans or grants for local governments to use on resilience projects; the bills establish guidelines for the priority of such loans and grants.

## Education

**HB 223** (*Coyner*) and **SB 437** (*Dunnivant*) allow a locality to provide group life, accident, and health insurance programs for employees of certain public school foundations.

**HB 563** (*O'Quinn*) and **SB 473** (*McClellan*) create the legislative framework for the School Construction Fund and Program. Funding of \$400 million in state general funds is included in the FY23 budget for school construction and modernization grants of \$1 million to each school division, with remaining funds distributed based on student enrollment. The FY23 budget also provides \$450 million for a School Construction Assistance Program for competitive construction grants based on demonstrated poor building conditions, commitment and need. Finally, these bills, along with **SB 238** (*McPike*), require the Department of Education (DOE) to maintain a data collection tool to assist local school boards in determining the age of each school building in their school division and the amount of maintenance reserve funds necessary to restore each building; the divisions are to provide local data necessary to ensure the tool remains relevant and useful.

**HB 829** (*Wilt*) provides flexibility for local school boards in fulfilling the staffing ratio requirements for school counselors.

**SB 471** (*McClellan*) provides, among other things, that the maximum Literary Fund loan amount be increased from \$7.5 million to \$25 million, and directs the Board of Education to establish a competitive program for the award of up to \$25,000 to a school division that receives a Literary Fund loan for the purpose of subsidizing all or a portion of the closing costs for such loan.

**SB 490** (*McClellan*) revise Standards of Quality provisions related to principals and assistant principals at the elementary, middle and high school levels.

**SB 724** (*Pillion*) requires local school boards to submit an annual report to the DOE and the Virginia Department of Housing and Community Development (DHCD) listing each student's 9-1-1 address that does not have broadband access.

## Finance

**HB 90** (*McNamara*) and **SB 451** (*Boysko*) eliminate the state sales tax, currently levied at 1.5%, on groceries, beginning January 1, 2023; this does not impact the local 1% sales tax on groceries.

**HB 267** (*McNamara*) and **SB 12** (*Sutterlein*) allow surplus personal property taxes to be returned to taxpayers; currently, localities can return surplus real property taxes.

**HB 368** (*Williams Graves*) increases from \$5,000 to \$10,000 the maximum amount a local governing body may authorize its treasurer to approve and issue for a refund of taxes paid as a result of an erroneous tax assessment.

**HB 518** (*Head*) and **SB 651** (*Vogel*) change the process by which the sales and use tax and transient occupancy taxes are collected from accommodations sales involving accommodations intermediaries, by requiring them to collect and remit sales and occupancy taxes; the definition of accommodations intermediary is broadened to include any accommodations facilitator that collects a room charge from a customer or charges a fee to the customer, which fee it retains as compensation for facilitating the sale. The bill takes effect October 1.

**HB 957** (*Tran*) provides that beginning with taxable year 2022, a locality may declare real property owned by a surviving spouse of a member of the Armed Forces who died in the line of duty, and where the spouse occupies the real property as the principal place of residence and does

not remarry, a separate class of property for purposes of local taxation of real property that may be taxed at a different rate.

**HB 1010** (*Durant*) provides that in localities conducting a reassessment more than once every four years, the tax rate public hearing notice shall be published on a different day and in a separate notice from the budget hearing notice.

**HB 1076** (*McNamara*) and **SB 25** (*Ruff*) require any locality that increases its cigarette tax rate to allow, for one calendar year after the increase, a person with unsold inventory to pay the tax increase on the unsold inventory by filing a return, which would be due six months after the effective date of the increase.

**HB 1084** (*Leftwich*) and **SB 385** (*McDougle*) prohibit a locality from imposing a license tax on a director of a bank or trust company that is subject to the bank franchise tax.

**HB 1087** (*Leftwich*) and **SB 502** (*Lewis*) expand the current local property tax exemption for pollution control equipment and facilities applicable to certain solar photovoltaic projects (generating capacity of five megawatts or less and filed initial interconnection request on or after January 1, 2019) to all such solar photovoltaic projects; such projects would not be exempt from the assessment of a revenue share by the locality.

**HB 1231** (*Robinson*) provides that in any locality in which the Commissioner of Revenue or other assessing official adjusts the valuation of automobiles to account for the amount of mileage accrued, such adjustment shall also be provided for motorcycles.

**HB 1239** (*P.A. Scott*) and **SB 771** (*Stuart*) create a new class of tangible personal property for tax rate purposes. This class would include most automobiles, passenger trucks, motor vehicles with specially-designed equipment for use by the handicapped, motorcycles, mopeds, all-terrain vehicles and off-road motorcycles, campers and other recreational vehicles. Localities would have the option to assign a rate of tax or assessment to this class different from the rate applicable to the general class of tangible personal property. The bill took effect March 22.

**SB 648** (*McPike*) provides that any locality may by ordinance accept documentation establishing eligibility for the real property tax exemption for the elderly and handicapped on a rolling basis throughout the year.

**SB 686** (*Mason*) provides that any solar facility installed (i) on the roof of a residential dwelling or a structure in an agricultural zone to serve the electricity needs of the property, and (ii) pursuant to existing local regulation of solar facilities is declared a separate class of property for local taxation purposes. Such facilities shall be exempt from state and local taxation; the exemption applies only to solar facilities with a generating capacity less than 25 kilowatts. The bill has a delayed effective date of January 1, 2023.

## **Human Services**

**HB 427** (*Herring*) and **SB 435** (*Barker*) direct the State Executive Council for Children's Services to inventory current efforts to recruit and retain parent representatives on local community policy and management teams and family assessment and planning teams, and compile a list of best practices for including and elevating parent voices within those teams.

**HB 653** (*Wampler*) directs the Department of Social Services to establish and implement a collaborative local board placement program to increase kinship placements and the number of

locally-approved foster homes. The program requires local boards of social services within each region to work collaboratively to 1) facilitate approval of kinship foster parents through engagement, assessment and training, and 2) expand the pool of available foster homes within and across the localities of such local boards. When placing a child, local boards must seek placement with a foster family within the locality or nearby locality.

**SB 202** (*Newman*) directs a study of options to increase the use of alternative custody arrangements for individuals who are subject to an emergency custody or temporary detention order.

**SB 268** (*Favola*) provides that when a magistrate orders alternative transportation for an individual under a temporary detention order, the primary law enforcement agency that executes the order may transfer custody of such person to the alternative transportation provider immediately upon execution of the order; the alternative transportation provider shall maintain custody of the person from the time custody is transferred by the primary law enforcement agency until such time as custody of the person is transferred to the temporary detention facility. If no alternative transportation provider is available, the magistrate shall order an individual to be kept in law enforcement custody.

## **Land Use**

**HB 272** (*Marshall*) and **SB 501** (*Lewis*) extend from July 1, 2022, to July 1, 2023, the sunset date for various local land use approvals that were valid and outstanding as of July 1, 2020.

**HB 648** (*Kory*) amends provisions related to whether certain public facilities are substantially in accord with an adopted comprehensive plan by adding “parks” to the types of public uses that may be excepted from the requirement for submittal to and approval by the planning commission or governing body for determining substantial accord.

**HB 996** (*Webert*) allows the owner of a majority interest in an undivided parcel of real estate that is eligible for land use assessment to file the application on behalf of himself and for owners of any minority interest.

**HB 1088** (*Leftwich*) allows bona fide property line disputes by agreement without local review; such agreement shall not result in nonconformity with local ordinances and health department regulations, and notice shall be provided to the zoning administrator of the locality in which the parcels are located.

**SB 537** (*Marsden*) expands to all localities provisions that currently only allow certain localities to adopt an ordinance concerning the planting and replacement of trees during the development process. A local ordinance must provide reasonable exceptions, to include allowing the unmet portion of a development’s tree canopy requirement to be met by payment to the Natural Resources Commitment Fund to support implementation of riparian forested buffer best management practices. The bill adds also more flexibility for implementation and management of tree canopy banks, tree canopy credits and tree canopy requirements. Provisions of the bill concerning conservation of trees during the development process will not become effective unless reenacted by the 2023 General Assembly.

## **Local Government**

**HB 199** (*Webert*) allows a locality, by ordinance, to provide that a parcel of real property shall not be removed from its land use program for delinquent taxes, if such taxes are paid no later than December 31 of the year in which they became delinquent.

**HB 298** (*Rasoul*) and **SB 142** (*Edwards*) authorize localities to petition the circuit court to appoint a special commissioner, in lieu of a sale at public auction, to convey certain real estate having delinquent taxes or liens to the locality's land bank entity or an existing nonprofit entity designated by the locality to carry out the functions of a land bank entity.

**HB 437** (*Bulova*) allows a locality to request a public meeting in the locality during the planning phase of a public facilities project costing at least \$500,000 from the state agency or institution of higher education responsible for such project.

**HB 616** (*Roem*) provides that upon request of the board of zoning appeals (BZA), a governing body shall consider appropriating funds so that the BZA may employ or contract for certain positions and services; the bill also provides that if a BZA has needs that surpass the budgeted amount, the governing body shall review the BZA request.

**HB 703** (*Keam*) authorizes localities to pay the initial issuance fee costs for the development and issuance of special license plates displaying the seal, symbol, emblem or logotype of the locality, in lieu of collecting 350 paid applications for such license plates.

**HB 710** (*Keam*) requires localities, in their employment hiring policies and practices, to take into consideration or give preference to an individual's status as a person with a disability, provided that such individual meets all of the knowledge, skills and eligibility requirements for the available position.

**HB 907** (*Brewer*) and **SB 526** (*Lucas*) allow a locality to require persons providing or operating a battery-charged fence security system to obtain an alarm company permit and fee; a locality can inspect newly-installed security systems and issue a citation warning of noncompliance and impose up to a \$500 penalty if the noncompliance is not remedied within a specified time period.

**HB 911** (*Orrock*) authorizes localities to provide a credit against local taxes and fees to an individual who provides first responder or other certain volunteer services in the locality.

**HB 951** (*Hodges*) and **SB 77** (*Norment*) authorize counties to conduct a real estate reassessment every three years, if determined by majority vote of the board of supervisors; current law requires counties to conduct a general reassessment every four years, with exceptions authorized for specified counties.

**SB 172** (*Peake*) requires county boards of supervisors, prior to July 1 of each year, to set a maximum annual compensation for its members, which will take effect as of January 1 of the year following the next regularly scheduled election.

## **Public Safety**

**HB 1053** (*Shin*) and **SB 581** (*Morrissey*) direct the State Board of Local and Regional Jails to convene a work group to study reducing or eliminating certain fees associated with inmates in local correctional facilities.

**HB 1191** (*Ransone*) and **SB 361** (*Stuart*) provide that participation in the Marcus Alert system shall be optional for localities with populations equal to or less than 40,000; all localities are required to develop protocols to divert calls from 9-1-1 to the crisis call center. The bill also requires establishment of a work group to identify barriers to establishment and implementation of Marcus Alert protocols.

**SB 60** (*Hackworth*) changes from May 1 to August 1 the date by which all political subdivisions must provide an annual, updated emergency management assessment and data related to emergency sheltering capabilities.

## Transportation

**HB 275** (*Coyner*) requires Commonwealth Transportation Board regulations that ensure connectivity of highway and pedestrian networks with transportation networks during secondary street acceptance, to include flexibility to limit the number of such connections to adjacent property or highway networks.

**HB 632** (*Carr*) makes certain secondary offenses related to loud exhaust systems that are not in good working order primary offenses, and exempts local ordinances related to such exhaust systems from the prohibition on law-enforcement officers stopping a vehicle for a violation, unless it is a jailable offense; the bill also repeals a section of *Virginia Code* allowing for local regulation of noise from motorcycles, mopeds, or motorized skateboards or scooters.

**SB 281** (*Ebbin*) exempts a manufacturer, factory branch or distributor engaged in the manufacture or distribution of transit buses from the requirements of obtaining a license from the Department of Motor Vehicles to engage in business; the bill also exempts transit buses from dealer's license plate and temporary license plate requirements.

**SB 362** (*Stuart*) provides that persons riding bicycles, electric personal assistive mobility devices and motorized skateboards or scooters two abreast shall not impede the normal and reasonable movement of traffic and shall move into a single-file formation as quickly as is practicable when being overtaken from the rear by a faster-moving vehicle.

## Miscellaneous

**HB 179** (*Bloxom*) and **SB 186** (*Hanger*) require an owner or lessee of a vehicle claiming a farm use exemption to obtain and display a nontransferable permanent farm use placard from the DMV.

**HB 414** (*Herring*) and **SB 280** (*Ebbin*) direct Dominion Energy to provide local reliability data within 30 days upon request by a locality located within the service territory of the utility.

**HB 463** (*Austin*) and **SB 141** (*Edwards*) remove authorization for the Department of Wildlife Resources to charge a fee for the use of facilities that it manages, but does not own, and for the use of boat ramps that it owns or manages.

**HB 746** (*Bell*) creates the Volunteer Fire Department Training Fund to assist or reimburse volunteer fire departments with costs of training and certifying volunteer firefighters; the bill also requires a work group to study the accessibility and availability of training programs, with a specific focus on providing training programs to volunteer fire departments.

**HB 1173** (*Ware*) and **SB 631** (*Barker*) replace the current provisions of the Virginia Overtime Wage Act with the provision that any employer that violates the overtime wage requirements of the federal Fair Labor Standards Act, and any related laws and regulations, shall be liable to its employee for remedies or other relief available under the Fair Labor Standards Act.

**HB 1290** (*Hayes*) and **SB 764** (*Barker*) require every public body to report to the Virginia Fusion Intelligence Center, within 24 hours of discovery, all known incidents that threaten the security of the state's data or communications or result in exposure of data protected by federal or state laws, and all other incidents compromising the security of the public body's information technology

systems with the potential to cause major disruption to normal activities of the body or other public bodies.

**SB 9** (*Peterson*) provides for attorney fees to be awarded in eminent domain cases under Title 25.1 and Title 33.1 in which there is a judgment for a property owner, if such judgment is not paid within the time required by law.

**SB 28** (*Marsden*) establishes the Virginia Business Ready Sites Program Fund to provide grants on a competitive basis to political subdivisions to prepare sites for industrial or commercial development.

**SB 47** (*Locke*) repeals the \$15 million annual credit cap imposed on the Virginia Housing Opportunity Tax Credit and allows taxpayers to receive a state-level credit in an amount substantially similar to the amount of federal credit allocated or allowed by the Virginia Housing Development Authority for 10 years.

**SB 400** (*Hanger*) authorizes the Board of Housing and Community Development to promulgate regulations related to certain agritourism event buildings, and to appoint an Agritourism Event Structure Technical Advisory Committee to assist it in its management. Certain provisions of the bill will not become effective unless reenacted by the 2023 General Assembly.

**SB 666** (*Peterson*) redefines "lost profits" for the purposes of determining just compensation in eminent domain cases. **SB 694** (*Obenshain*) makes various changes to current eminent domain law concerning lost profits and lost access.

***Broadband:***

**HB 445** (*Murphy*) and **SB 446** (*Boysko*) establish a task force to recommend any local ordinances, policies or procedures that have been effective in expanding or deploying broadband service in new residential and commercial development.

**HB 1265** (*Subramanyam*) and **SB 716** (*Peterson*) direct the DHCD to develop the Commonwealth Digital Affordability and Cost-Effectiveness Plan to address broadband affordability and equity.

***Elections:***

**HB 895** (*Kilgore*) requires local electoral boards and general registrars to perform certain risk-limiting audits in accordance with the procedures prescribed by the State Board of Elections, with a risk limit of at least 10 percent; localities are required to participate in such audits at least once every five years.

**HB 927** (*Robinson*) and **SB 3** (*Sutterlein*) require general registrars to report to the Department of Elections the number and results of absentee ballots cast by voters assigned to each precinct in the registrar's locality; the Department is to establish standards for ascertaining and reporting such information.

***Freedom of Information (FOIA)/Conflict of Interest Act (COLA):***

**HB 150** (*March*) requires posting on the local public body's website of meeting minutes within seven days of approval.

**HB 167** (*Ransone*) provides that in any instance in which a locality has submitted a notice request to a newspaper and the newspaper fails to publish the notice, or publishes it incorrectly, the

locality is deemed to have met the appropriate notice requirements, as long as the notice was published in the next available edition of the paper.

**HB 307** (*Freitas*) provides that a public body subject to FOIA shall make all reasonable efforts to supply records requested by a citizen at the lowest possible cost. It also requires public bodies, prior to conducting a search for requested records, to notify the requester in writing that the public body may make reasonable charges to fulfil the request, and inquire of the requester if a cost estimate is desired before supplying of the requested records.

**HB 444** (*Bennett-Parker*) allows, effective September 1, electronic (all virtual) meetings for public bodies that are not a local governing body, local school board, planning commission, architectural review board, or zoning appeals board. In cases of all virtual meetings, the bill contains a 10-point checklist of rules on public access, and such body must still meet all other requirements of the FOIA law. These “all virtual” provisions can be used for two, or 25 percent of the meetings per year, whichever is greater. The bill also calls for a workgroup to be convened by the FOIA Council to look at best practices for all virtual meetings, to include how to take public comment virtually and proper use of video by public body members.

**HB 734** (*Bell*) provides that criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of the FOIA, except under certain conditions.

**HB 1131** (*Williams*) and **SB 417** (*Stanley*) direct the Code Commission to convene a work group to review requirements throughout the *Code* for localities to provide public notice for intended actions and events; a report and any recommendations are due by November.

**SB 152** (*Locke*) defines "official public government website" as it applies to the FOIA as any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to the FOIA on behalf of the public body.

***Procurement:***

**HB 429** (*Bulova*) and **SB 225** (*McPike*) provide that the sum of all projects performed in an architectural and professional engineering contract term shall not exceed \$10 million, and the fee for any single project shall not exceed \$2.5 million; the bill allows a contract for multiple projects to be renewable for up to three additional terms at the option of the public body.

**SB 258** (*Bell*) provides that, except in cases of emergency, bids and proposals for certain transportation-related contracts in excess of \$350,000 and partially or wholly funded by the state shall be accompanied by a bid bond; current law sets the bid or proposal amount for such contracts at \$250,000.

**SB 259** (*Bell*) requires a performance bond and payment bond from the contractor for all non-transportation-related public construction contracts that exceed \$500,000 and all transportation-related projects that exceed \$350,000 and are partially or wholly funded by the state.