



Glenn Youngkin  
Governor

Caren Merrick  
Secretary of  
Commerce and Trade

# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn  
Director

TO: Members of the Commission on Local Government  
FROM: DHCD Staff  
DATE: August 26th, 2022  
SUBJECT: Draft Agenda and Meeting Materials - REVISED

**Please find enclosed the following:**

1. Draft agenda for your regular meeting to be held in person on Friday, September 9th 2022, at 11:00 a.m. in the Board Room of the Henrico County Economic Development Authority (4300 E. Parham Road, Richmond, VA 23228);
2. Draft Minutes from the July 8th, 2022 Regular meeting of the Commission;
3. Articles of interest to the Commission;
4. Draft Electronic Meeting Policy for the Commission;
5. Code of Virginia Section § 15.2-3231 Article 2: Agreements Defining Annexation Rights
6. Draft Timeline for Town of Dublin/Pulaski County Agreement Defining Annexation Rights Case;
7. Procedures Office of Regulatory Management for the Review Of State Agency Regulations; and,
8. The Draft 2022 Catalog of State and Federal Mandates on Local Governments

Please note that staff will provide additional updates on items of interest to the Commission at the meeting, as these items and the agenda are subject to change.

If you have any questions or require additional information, please feel free to contact us at 804.310.3410, or [legrand.northcutt@dhcd.virginia.gov](mailto:legrand.northcutt@dhcd.virginia.gov).

We look forward to seeing you on September 9th!





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# COMMONWEALTH of VIRGINIA

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## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### AGENDA

**Commission on Local Government  
Regular Meeting: 11:00 a.m., September 9th, 2022  
Henrico County Economic Development Authority  
Board Room  
4300 E. Parham Road  
Richmond, Virginia 23228**

**For the public,  
Commission on Local Government Meeting  
Friday, September 9th 2022 · 11:00am – 1:00pm**

**Google Meet joining info**

**Video call link: <https://meet.google.com/jtc-qwcx-ofj>**

**Or dial: (US) +1 475-222-5241 PIN: 709 857 141#**

1. Occupancy for the meeting space is limited, so the Commission encourages members of the public to observe the meeting through the Google Meet link provided above. Please contact LeGrand Northcutt (legrand.northcutt@dhcd.virginia.gov) for information on how to connect to the meeting using this method.
2. Members of the public viewing the meeting through the Google Meet option are required to mute themselves during the meeting unless called upon by the Commission Chair to speak. The CLG reserves the right to remove from its virtual meetings anyone who does not abide by these rules.
3. Access to meeting materials for members of the public is available on the corresponding meeting page of the [Virginia Regulatory Town Hall website](#) and on [Commonwealth Calendar](#).

### Call to Order

#### I. Administration

- |   |                 |
|---|-----------------|
| A. Approval of the Draft Meeting Agenda                         | (Ms. Linderman) |
| B. Approval of Minutes of the Regular Meeting on July 8th, 2022 | (Ms. Linderman) |
| C. Public Comment Period  | (Ms. Linderman) |
| D. Staff Report   | (Mr. Northcutt) |

#### II. Electronic Meeting Policy



- A. Staff Presentation (Mr. Northcutt)
- B. Commission Deliberation and Action (Ms. Linderman)
- III. Case Updates**
  - A. Martinsville/Henry County (Mr. Northcutt)
  - B. Dublin/Pulaski (Mr. Northcutt)
  - C. Warrenton/Fauquier (Mr. Northcutt)
- IV. Updates to Regulatory Process**
  - A. Staff Presentation and Discussion (Mr. Northcutt)
- V. 2022 Catalog of State and Federal Mandates on Local Governments (Draft)**
  - A. Staff Presentation (Mr. Northcutt)
  - B. Commission Deliberation and Action (Ms. Linderman)
- VI. Commission Workgroups Update**
  - A. HB445/SB446 Stakeholder Advisory Group (Ms. Mahan & Ms. Wheaton)
  - B. Virginia Code Commission (Ms. Linderman & Mr. Northcutt)
- VII. PDC Reports**
  - A. Staff Presentation (Mr. Sawyer)
- VIII. Upcoming Events of Interest**
  - A. Staff Presentation (Mr. Northcutt)
- IX. Schedule of Regular Meetings**
  - A. Staff Presentation (Mr. Northcutt)
  - B. Commission Deliberation and Action (Ms. Linderman)
- X. Other** (Ms. Linderman)
- XI. Adjournment** (Ms. Linderman)





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## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Commission on Local Government

July 8, 2022

11:00 A.M.

Henrico, Virginia

#### Members Present

Stephanie Davis, PhD (attending virtually)  
Diane M. Linderman, PE, Chair  
Rosemary M. Mahan  
Edwin S. Rosado  
Ceasor T. Johnson, D.Min, Vice Chair

#### Members Absent

None

#### Call to Order

The Commission on Local Government (CLG) Chair, Diane M. Linderman, called the meeting to order at 11:15 a.m.

Mr. LeGrand Northcutt, Senior Policy Analyst at the Virginia Department of Housing and Community Development (DHCD) initiated a role call vote. Mr. Northcutt informed Chair Linderman that a quorum of Ms. Linderman, Ms. Mahan, and Mr. Rosado was present in person.

Dr. Davis attended the meeting virtually via google meets from Wyth County, Virginia, due to medical condition that has prevented her attendance.

#### Administration

After discussion, the draft agenda was adopted unanimously on a motion by Mr. Rosado and second by Ms. Mahan.

The minutes from the May 12<sup>th</sup> regular meeting were adopted unanimously subject to changing a typo under “2022 General Assembly Update” on a motion by Ms. Mahan and second by Mr. Rosado.

Dr. Johnson joined the meeting in person shortly after the approval of the minutes.





Ms. Linderman opened the floor for the public comment period. No members of the public appeared before the Commission for the public comment period. The public comment period was closed.

Staff Report and Updates

Mr. LeGrand Northcutt, gave a report on staffing for the Commission by DHCD. The Department has backfilled two positions in the Policy Office, an Analyst and a Senior Analyst. Both will be providing staff support to the Commission as needed.

Mr. Northcutt and Ms. Grace Wheaton, Senior Policy Analyst, gave updates on continuing work on the Mandates Catalog, the Cash Proffers Survey, potential changes to the electronic meetings policy, the broadband work group, and the public notice work group. The Commission will revisit its electronic meetings policy at the September meeting, pending guidance from the FOIA Council.

Ms. Wheaton gave an update on the 2022 General Assembly Special Session and discussed the potential impacts of the budget on local governments.

FY 2020 Fiscal Stress Report

Ms. Wheaton presented the FY 2020 Fiscal Stress Report. There were minimal changes to the rankings from previous years. This was the first year that data from the COVID-19 pandemic is reflected in the report.

After discussion about how to adjust the Fiscal Stress Report release timeline to ensure that the data is timely, Ms. Mahan moved to approve the report with a second by Mr. Rosado. The motion passed unanimously.

Executive Order 19

Mr. Northcutt gave an overview of the new periodic review process required by Governor Youngkin's Executive Order 19. All reviews of regulations will go through the newly-created Office of Regulatory Management. Further updates will be provided as needed.

Schedule of Regular Meetings

Upon unanimous approval by the Commission, the remaining regular meetings of the Commission for this calendar year will take place on September 9 at 11:00 am and on November 4 at 11:00 am.

Other

There was no other business brought before the Commission.

Adjournment

Ms. Mahan moved to adjourn with a second by Mr. Rosado. The motion passed unanimously.



# Amid housing crises vacation towns limit short-term rentals

By Jesse Bedayn | AP

August 23, 2022 at 5:09 p.m. EDT

STEAMBOAT SPRINGS, Colo. — In the Colorado ski town of Steamboat Springs, motels line the freeway, once filled with tourists eager to pitch down the slopes or bathe in the local hot springs.

Now residents like Marc McDonald, who keep the town humming by working service-level jobs, live in the converted motels. They cram into rooms, some with small refrigerators and 6-foot-wide kitchens, or even just microwave kitchenettes. Others live in mobile homes.

Steamboat Springs is part of a wave of vacation towns across the country facing a housing crisis and grappling with how to regulate the industry they point to as a culprit: Short-term rentals such as those booked through Airbnb and Vrbo that have squeezed small towns' limited housing supply and sent rents skyrocketing for full-time residents.

"It's basically like living in a stationary RV," said the 42-year-old McDonald, who lives with his wife in a just over 500-square-foot converted motel room for \$2,100-a-month, the cheapest place they could find.

McDonald, who works maintenance at a local golf course and bartends at night, and his wife, who's in treatment for thyroid cancer and hepatitis E, said they will be priced out when rent and utilities jump to about \$2,800 in November.

"My fear is losing everything," he said, "My wife being sick, she can't do that, she can't live in a tent right now."

Short-term rentals have become increasingly popular for second homeowners eager to offset the cost of their vacation homes and turn a profit while away. Even property investment companies have sunk hundreds of millions of dollars into the industry, hoping to pull a larger yield from tourists seeking their own kitchen, some privacy and a break from cookie-cutter hotel rooms.

When the pandemic opened the floodgates for remote work, Airbnb listings outside of major metro areas rose by nearly 50% between the second quarter of 2019 and 2022, the company said.

In six Rocky Mountains counties, including Steamboat Springs' Routt County, a wave of wealth flooded towns, with nearly two-thirds of 2020 home sales going to newcomers, most making over \$150,000 working outside the counties, according to a survey from the Colorado Association of Ski Towns.

Local governments — from Lincoln County on Oregon’s coast to Ketchum in Idaho’s Smoky Mountains — are grappling with how to regulate the \$74 billion industry they say fuels their economies while exacerbating their housing crises.

In June, the Steamboat Springs City Council passed a ban on new short-term rentals in most of town and a ballot measure to tax the industry at 9% to fund affordable housing.

“There is not a day goes by that I don’t hear from someone ... that they have to move” because they can’t afford rent, said Heather Sloop, a council member who voted for the ordinance. “It’s crushing our community.”

The proposed tax is strongly opposed by a coalition that includes businesses and property owners, the Steamboat Springs Community Preservation Alliance. Robin Craigen, coalition vice president and co-founder of a property management company, worries the tax will blunt any competitive edge Steamboat might have over other Rockies resorts.

“The short-term rental industry brings people to town, funds the city, and you want to tax it out of existence?” Craigen said. “It doesn’t make sense.”

Visitors booking on platforms like Airbnb spent an estimated \$250 million in Steamboat Springs in 2021, according to a coalition analysis of local data. If tourism dropped just 10%, local business in the town of some 13,390 residents would lose out on \$25 million.

Larger cities, including Denver and Boston, have stricter regulations, like banning vacation rentals in homes that aren’t also the owners’ primary residences. However, a federal appeals court in New Orleans struck down an ordinance Monday that had required residency to get a license for short-term rentals.

But smaller tourist destinations must strike a delicate balance. They want to support the lodging industry that sustains their economies while limiting it enough to retain the workers that keep it running.

“No one has found the perfect solution yet,” said Margaret Bowes, executive director of the Colorado Association of Ski Towns, which tracks efforts to control short-term rental markets.

“The trajectory of the number of properties becoming (short-term rentals) is not sustainable,” she said. “No one (working in) these communities” will be able to live in them.

Susana Rivera, a 30-year Steamboat Springs resident, tried living in the nearby town of Craig as a cheaper alternative. Every morning, she would drop her youngest child off at a friend’s house before driving 45 minutes to her Steamboat Springs supermarket job.

In 2014 she left the grueling routine behind after getting off the waitlist for an \$800-a-month, two-bedroom apartment in a government-run affordable housing development. She fits her youngest child, a niece and nephew, and occasionally her mother and couch-surfing brother, into the unit.

The affordable housing program is one way local officials are trying to address the problem, but demand dramatically outstrips supply.

About 1,200 people signaled interest in 90 apartments in a new subsidized housing development, said Alyssa Cartmill, regional property manager for the Yampa Valley Housing Authority.

While the industry’s major companies, including Airbnb and Vrbo, do not release comprehensive data publicly, figures from analytics firm AirDNA and the U.S. Census Bureau show nearly 30% of homes in Steamboat Springs are vacation rentals.

That's some 3,000 units removed from the Steamboat Springs' housing supply as the town's median monthly rent for a two-bedroom apartment reached \$3,100 in August, according to data from Zillow.

Median home prices showed a 68% jump to \$1.6 million since the beginning of 2020, pushing the quaint town's home values nearer to those of San Francisco, at \$1.8 million, according to company data.

A study commissioned by Airbnb found short-term rentals support 13,300 jobs in popular Rocky Mountains counties and, it argued, have little impact on housing prices. The real problem, it said, is that housing construction hasn't kept up with job growth. The report also found that only 3% of short-term rentals could be used as workforce housing based on their rental rate.

"This report underscores the integral role of short-term rentals in the Colorado tourism economy," Airbnb spokesperson Mattie Zazueta wrote in an email.

"Vacation rentals provide a diversity of accommodation options for visitors, help some vacation homeowners and residents afford their homes, and are a key revenue generator in local economies — providing jobs, income and taxes to local communities," Vrbo parent company Expedia Group said in a statement.

But the study didn't consider other options, like making homes that are out of reach for a single worker available to a group living together, said Daniel Brisson, a Denver University professor and director of the Center for Housing and Homeless Research.

The high prices are not merely displacing lower-income workers and their families, but also better-paid workers such as nurses and police officers.

The city's hospital, Yampa Valley Medical Center, is scrambling to find staff as the number of open positions grew from around 25 to 70 in the last few years, said hospital president Soniya Fidler.

"What keeps me up at night?" Fidler asked. "Will we be able to help the next trauma victim?"

Steamboat Springs Police Chief Sherry Burlingame spends her days finding housing and negotiating mortgage loans for prospective hires. Understaffed, the police department has cut back on services while response times have lengthened.

"We have overlooked what it takes to keep this community alive," Burlingame said.

The new Steamboat Springs ordinance creates three zones. The red zone, where new short-term rentals are prohibited, covers most of the city but those who have rented in the past 12 months can continue to operate. The yellow zone caps the number of new vacation rentals, while the green zone, set largely beneath the ski mountain, has no cap.

Oregon's coastal Lincoln County that is heavily reliant on tourism approved a ballot measure in November that would ban new short-term rentals and start a five-year phaseout of the rest in certain areas. After a lawsuit from vacation rental owners, the measure has been on hold and is pending in court.

Steamboat Springs, which studied what other municipalities have done nationwide, plans to monitor the effectiveness of its new regulations and tax increase, if it passes, and adjust if necessary.

For Sean Bailey, the new laws could not have come sooner. Bailey, who moved to Steamboat in 2019 and works at the outdoors store Big Agnes, squeezes into a bedroom in a mobile home that he rents for \$650 a month. He has been on a waitlist for three years to get one of Steamboat's affordable housing apartments.

“My bedroom acts as my living room, my dining room, my den, my office — all in this 12-by-12 space,” Bailey said. Now, he said, even “low-income housing is being priced out of the water for a lot of us who are just trying to get by.”

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Jesse Bedayn is a corps member for the Associated Press/Report for America Statehouse News Initiative. Report for America is a nonprofit national service program that places journalists in local newsrooms to report on undercovered issues. Follow Bedayn on Twitter.

[https://heraldcourier.com/news/hurley-long-term-flood-recovery-group-expands-to-include-dismal-creek-area/article\\_6f2daff4-18e9-11ed-9c68-33c9a1152a6e.html](https://heraldcourier.com/news/hurley-long-term-flood-recovery-group-expands-to-include-dismal-creek-area/article_6f2daff4-18e9-11ed-9c68-33c9a1152a6e.html)

FEATURED TOP STORY

## Hurley long-term flood recovery group expands to include Dismal Creek area

BRISTOL HERALD COURIER

Aug 10, 2022



Photo Contributed

BRISTOL HERALD COURIER

**T**he Long Term Recovery Group (LTRG) that was initially formed to help Hurley, Virginia, residents repair and rebuild following the floods of August 2021 will expand to help residents along the Dismal River in Buchanan County address similar needs created by the floods of this past July.



"We discussed it with the membership of the LTRG, which includes county officials and residents," Travis Staton, president and CEO of United Way of Southwest Virginia, which serves as fiscal agent for the group, said. "The general consensus was, we didn't need to reinvent the wheel with an entirely new group. Instead, we're adding members from the areas affected by this year's flooding."

The LTRG has helped coordinate funding and volunteer labor as Hurley residents have worked through the process of dealing with not only the damage to their homes, but also the sometimes-complicated work of dealing with local, state and federal government entities.

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## People are also reading...

- 1 **2022 Hogohegee District/George Wythe Football Capsules**
- 2 **Tiller time: Honaker begins a new era with Tiller replacing Hubbard as leader of the Tigers**
- 3 **Council authorizes purchase of \$1.4 million recreation facility**
- 4 **Patrick Henry's Tyler Barrett imposing on the O-Line**

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"The LTRG already has representatives from Buchanan County emergency management and the county Department of Social Services, which handles case management," Staton said. "So, the expertise is already in place."

It's important that residents understand the LTRG will still ensure every donor dollar raised by United Way of Southwest Virginia and administered through the LTRG will go toward repair and rebuild jobs for residents affected by the flood, Staton said.

"And, everyone should understand that the LTRG will be working with two distinct funds now, one for Hurley and one for the Whitewood and surrounding areas that were impacted by this year's flood. Those two funds will remain totally separate."

Deadline for residents affected by the July Buchanan County flooding to apply for LTRG assistance is Sept. 16.

"That gives those residents the same time window that Hurley residents had last year, while at the same time, giving donors some assurance that the damage being addressed is damage that was actually incurred during the flood," Staton said.



[https://martinsvillebulletin.com/news/local/supreme-court-reversion-referendum-stands/article\\_9b296af8-2325-11ed-9f6f-e3a633daa6a3.html](https://martinsvillebulletin.com/news/local/supreme-court-reversion-referendum-stands/article_9b296af8-2325-11ed-9f6f-e3a633daa6a3.html)

FEATURED TOP STORY

## Supreme Court: Reversion referendum stands

**Bill Wyatt**

Aug 23, 2022



Mark Heath, Martinsville-Henry County Economic Development Corporation president and CEO, gives the Board of Bill Wyatt

Bill Wyatt

**T**he Virginia Supreme Court has dismissed a case before them filed by the city of Martinsville asking that a referendum on reversion be declared unconstitutional.

Henry County Administrator Dale Wagoner announced at a regular meeting of the Board of Supervisors Tuesday afternoon that Henry County Attorney George Lyle had some “breaking news” to share with the Board and the community.

“The City had asked the Supreme Court to declare the special legislation requiring a referendum on reversion unconstitutional and that the Supreme Court should act immediately,” said Lyle. “The Supreme did not act and has dismissed the case.”



Henry County Attorney George Lyle told the Board of Supervisors on Tuesday that the Virginia Supreme Court had dismissed a case regarding reversion by the city of Martinsville.

Bill Wyatt

Lyle said the City could pursue other ways to prevent voters in the city from voting for or against Martinsville reverting from a city to a town within Henry County, but did not elaborate on what they might be.

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## People are also reading...

- 1 **Virginia man has super antibodies against COVID-19**
  - 2 **Arrest report: Martinsville and Henry and Patrick counties**
  - 3 **Gas-powered muscle cars drive into the sunset, turn electric**
  - 4 **Black couple sues after they say home valuation rises nearly \$300,000 when shown by white colleague**
- 

Said Lyle: “Now the three-judge panel would be in a position to proceed with the matter concerning reversion itself.”

City officials have scheduled two hours at the NCI’s Baldwin Building on Thursday beginning at 6:30 p.m. to answer questions from the community regarding reversion.

Bills filed in the House by Del. Danny Marshall (R-Danville) and in the Senate by Sen. Bill Stanley (R-Moneta) passed and were signed into law by Gov. Glenn Youngkin at the end of this year’s session of the General Assembly. They require the matter of reversion to come before voters in the city of Martinsville and pass by a majority before City Council may pursue reverting to a town.





The Henry County Board of Supervisors met for a regular meeting on Tuesday.

Bill Wyatt

## In other matters, the Board:

- Heard a report regarding collections from Henry County Treasurer Scott Grindstaff. As of July 29, Grindstaff said his office had collected 92% of personal property taxes and 94% of real estate taxes. The collection firm employed by the County has collected \$353,621 so far this year.
- Heard a report from Mark Heath, Martinsville-Henry County Economic Development Corporation president and CEO. Heath said that work has begun on an application for \$18 million in grant funding to fully grade a tract at Commonwealth Crossing Business Centre that will yield a 200-acre site with a 150-acre pad. “Small Business Saturday will be Nov. 26,” said Heath. “The EDC will offer \$10 coupons to the public for use at participating local restaurants. Last year 400 coupons were given out, and this year 500 coupons are planned to be distributed.”
- Approved a contract to Bill Agee Consulting at a price not to exceed \$2,000 to assess the existing Henry County radio microwave system and assist with developing a request for proposal to update the system. Public Safety Director

Matt Tatum wrote in his request that the 13-year-old system reached its end of serviceable life in 2021.

- Approved a request from Commonwealth's Attorney Andrew Nester for an additional appropriation of \$8,500 from state asset forfeiture funds to cover the cost of travel expenses.
- Approved a request from Sheriff Lane Perry to appropriate \$19,566 from the state asset forfeiture funds for the purchase of radio headsets for the Special Weapons and Tactics (SWAT) team.
- Approved a request from Perry to award a sole source contract for \$133,500 to Montgomery Technology Systems, LLC of Greenville, Alabama to replace security locks, access controls and the camera system in the Henry County Courthouse.
- Approved \$37,275 as the County's share to award a contract to Evergreen Solutions LLC to perform a comprehensive classification and compensation study for Henry County, including the Sheriff's Office and the school system. Henry County Public Schools has agreed to cover the other half of the total cost of \$74,550. "This is a very in-depth process that will include talking with department heads, employees, creating focus groups, online surveys and a market analysis," said Wagoner. "It will contain considerable information and will not be finished until spring of 2023." Wagoner said the report will ultimately determine who might be underpaid based on market conditions or misclassified and offer recommendations. "We have mentioned to the vendor that we don't know the magnitude of this, so we've asked that they give us the information in nuggets" instead of all at one time, Wagoner said.
- Approved a mutual aid agreement with Pittsylvania County for fire and emergency services. A mutual aid process had already been in place, but the agreement formalizes it.
- Approved a comment period to begin Aug. 24 and end Sept. 24 on a \$17,262 Justice Assistance Grant to the Sheriff's Office. The money will provide assistance with overtime expenses in high-crime areas and for major incidents.
- Approved a resolution designating Phase 6A of the Dick and Willie Passage Trail as public outdoor recreation land. The act was required by the Land and Water

Conservation Fund and involves just under 20 acres.

- Approved a resolution authorizing a grant application to the U.S. Department of Transportation for Phase 7 of the Dick and Willie Passage Trail.
- Learned from Lyle that almost \$50,000 has been received as the first payment in a nationwide settlement as part of opioid maker Endo's bankruptcy. "There will be 16 more payments to be received," said Lyle.
- Learned from Wagoner that the County's technology department will be installing a major software upgrade over the upcoming weekend and in preparation of that work, the Treasurer's Office will not be able to accept payments Friday afternoon and the online payment option may be interrupted over the weekend.

Bill Wyatt is a reporter for the Martinsville Bulletin. He can be reached at 276-591-7543. Follow him @billdwytatt.

OPINION

# Seven factors that are driving economic development in Virginia

*Demand for big sites and renewable energy is driving many decisions. Electric vehicles also represent a growing share of investments.*



by **Dwayne Yancey**  
August 23, 2022



Jason El Koubi, president and CEO of the Virginia Economic Development Partnership, speaks in Roanoke. Photo by Dwayne Yancey.

There's an old military saying, often attributed to Gen. Omar Bradley: "Amateurs talk strategy. Professionals talk logistics."

The same saying might apply to economic development, as well. Lots of people have theories about what a community's strategy ought to be. Politicians certainly do. Even the occasional commentator has been known to opine on economic development strategy. Hmmm ...

In a way, though, we're all amateurs, talking about how we think things should be. Last week, I had a chance to hear a professional talk about how things really are. The occasion was a Virginia Association of Counties meeting in Roanoke where Jason El Koubi, president and CEO of the Virginia Economic Development Partnership, spoke.

He laid out some statistics about economic development that anyone concerned about their community's economy should pay attention to. Some of these may reinforce some people's world view; others won't. What can I say? Reality is complicated.

El Koubi laid out seven trends that are shaping economic growth – and the implications of each:

**1. Workers are harder to find, which sets off a chain reaction in the marketplace.** (For background on why this is happening, see my previous column, [“Why the worker shortage is here to stay.”](#)) El Koubi said this will force companies to invest in automation. It will drive up wages and lead to increased demand for companies to accommodate remote work, because that may be the only way that some companies can find enough workers. He didn't say this but I will: The more we see demand for remote work, the better that is for rural areas. It means some workers will be able to move to rural areas and still find work. It also means some people already living there will be able to find jobs they couldn't find previously.

**2. We're seeing more big projects, defined as 1,000 jobs or more, which**



**means we need sites big enough to handle them** (and a laborshed with enough workers, since this trend runs smack into the first one). In 2020, the state was involved in courting six projects that could be considered a “megaproject” of 1,000 jobs or more. This year that figure has grown to 25. “We’re seeing a lot more big opportunities,” El Koubi said. “It really increases the importance of having mega sites.” That’s of particular importance to Pittsylvania County, home to the state’s biggest “mega site” – the 3,528-acre Southern Virginia Mega Site at Berry Hill. However, that leaves out much of Southwest Virginia, where the topography works against such big sites. Hold onto that thought about the Southern Virginia Mega Site; we’ll be coming back to that.

Meanwhile, El Koubi showed off some separate stats that examined the biggest barriers to economic development in Virginia. A 2020 survey of economic development offices in the state found that 52% said “sitebuilding availability” was their biggest obstacle. The other top challenges: money/revenue 30%, infrastructure capacity 24%, housing 23%, demographics 17%, other 9%, taxes and regulation 3%. Those numbers add up to more than 100% because people sometimes listed multiple things as their top obstacle. Am I the only one surprised that taxes and regulation came in so low? We often hear that cited as an obstacle to business growth, yet that’s not what economic development professionals are finding. It’s lack of land (or, more accurately, prepared land) – which will inform much of what will come.

**3. Speed to market is “paramount” in site selection.** This is why we don’t just need sites, we need prepared sites. This is a category where Virginia has lagged in recent years. I’ve trotted out these figures before but will do so again: Virginia’s been spending about \$5 million a year to get sites prepared. But South Carolina has been spending \$43 million, Ohio \$50 million, Georgia \$66 million. And they’re all dwarfed by North Carolina, which has been spending \$80 million, although that figure rose to \$338 million last year as the state spent extra on some specific sites. Kentucky last year spent \$261 million for the same reason. That’s a trend that Ralph Northam attempted to correct in his final months as governor by proposing a major increase in state spending on site preparation – and which Gov. Glenn Youngkin endorsed in his first address to the General Assembly. The budget that Youngkin eventually signed calls for up to \$159 million in funding for site preparation as Virginia tries to play catch-up here. Earlier this year, the

Southern Virginia Mega Site lost out to Georgia on an 8,100-job electric vehicle battery plant for Hyundai. The reason? Georgia's site was better prepared. "These guys are under tremendous pressure when they identify a business opportunity," El Koubi told the meeting of county officials. All the time they're waiting for a plant to get built, they're not making money. The sooner it's up and running, the sooner they're cashing in. Whether mega sites or smaller sites, the big push right now is to get those sites graded and otherwise prepped for market. El Koubi said that 85% of Virginia's sites of 100 acres or more are not considered "project-ready." He said that every year the No. 1 reason why Virginia has missed out on economic development projects is the lack of prepared sites.

Here's why this is so important: El Koubi said that since 2016, the lack of project-ready sites has potentially cost Virginia 52,000 direct jobs, 102,000-plus indirect jobs (once you factor in the ripple effect of money moving through the economy), \$120 billion in investment and \$381 million to \$493 million in additional state revenues. (These are new, and bigger, numbers than what we've seen reported previously.) Whether you're a Democrat who thinks we ought to be spending that additional revenue on certain things, or a Republican who thinks we ought to be cutting taxes, that's a lot of revenue we're missing out on. These numbers aren't guesses, either. They're based on actual projects that the state was involved in courting, and missed out on. El Koubi's presentation walked through some of those. The state assigns military-style code names to each economic development project. So Project Aurora was an automotive company that would have created 6,500 jobs – went elsewhere. Project Settlement was a semiconductor company that would have created 5,600 jobs – went elsewhere. Project Darwin was another automotive company that would have created 5,200 jobs – went elsewhere. And so on down the line. Now, realistically, we wouldn't have gotten all of these – some may have been looking at the same sites. Still, I'll make this observation: If we're talking big projects that need big sites, then we're probably talking sites in rural areas, which means here are a lot of jobs that rural Virginia is missing out on. Think of just what one of those would have meant in either Southwest or Southside.

**4. More companies are prioritizing renewable energy as part of their site selection process.** We can argue the politics of green energy all we want; this is the business reality. El Koubi pointed out that Virginia has pursued an "all of the above" approach to energy. However, more companies are demanding

renewables, so if we want to be competitive for those employers, then we need to provide them. Up until 2020, renewables weren't considered a driver in corporate decisions. Last year, it was a factor for two companies that were looking at Virginia. So far this fiscal year, it's a driver for eight. Those numbers might seem small but these aren't. The average capital investment for companies listing renewables as a driver: \$1.2 billion. The average employment for those companies: 921 jobs. There are trade-offs in everything and there are obviously some here. There's a boom in solar farms across Southside but not everyone is happy about farmland and timberland being taken out of agricultural production for what feels to them like the industrialization of the countryside. One county supervisor from Dinwiddie County asked: What about counties that want to preserve farmland – are they going to be left behind in this new economy? There are no easy answers to that. Still, it's important to remember it's not just the stereotypical "tree-hugging dirt worshippers" in the environmental movement who are pushing renewables; it's that most classically conservative of forces, the hidden hand of the marketplace.

To the extent that Virginia's controversial Clean Economy Act has driven the development of more renewables, it's also helping make the state more marketable to some potential employers. (Some also say it's driven up the cost of electricity in the short-term; can't dispute that – just pointing out that it's helped drive a lot of solar development that wasn't there previously, so if that's what some companies are looking for, now we have it.)

**5. Large office projects are declining “precipitously” as remote work becomes more common and some workers leave big metros for smaller communities.** (The Census Bureau has some stats that document this migration; see [my previous column](#) that delves into those.) This has implications two ways: It's obviously not good for landlords in bigger cities, but it “potentially generates some opportunities in lower-cost, mid-sized metros.” In other words, what's bad for Loudoun County might be good for Lynchburg, and so forth.

**6. The tech sector is the main driver of growth.** El Koubi's presentation talked about how tech jobs can also generate other jobs in the economy. Of course, the tech sector doesn't seem to mean much for large swaths of rural Virginia, but it does mean a great deal to the New River Valley. Earlier this year, the Brookings Institution [reported](#) that the New River Valley has the nation's third highest

growth rate for tech jobs. This also underscores the message that Rep. Ro Khanna, D-California and the congressman from Silicon Valley, has been making: that the nation needs to “spread the digital wealth” beyond a relative handful of go-go tech hubs. He elaborated on this message [when he spoke in Blacksburg](#) in June as part of our Cardinal News Speaker Series. The second speaker in that series will be Jay Timmons, president of the National Association of Manufacturers, who will appear in Danville on Sept. 12. That event is free but seating is limited, so [registration is required](#). Timmons will speak on the future of manufacturing, and I suspect he’ll say that much of advanced manufacturing really consists of tech jobs in a different form.

**7. Electric vehicle manufacturing accounts for an increased share of large projects.** Here’s where we start to tie a lot of these points together. El Koubi said that the growing interest in electric vehicles highlights the “growing importance of [a] robust manufacturing workforce.” It also underscores the need for more big “ready-to-go” sites – that Hyundai plant that passed on Southern Virginia for Savannah is but one example. We also know that there’s essentially a race going on right now as car makers try to position themselves for the electric vehicle market. They’re all busy building plants – either for assembly or for making batteries – and many of those are getting built in the Sunbelt. As I wrote [in a previous column](#), the geography of the future economy is being drawn now. Now consider this: All that was before Congress passed, and President Joe Biden signed, the so-called Inflation Reduction Act. The bill may or may not reduce inflation but [it does mandate](#) that electric vehicle makers “re-shore” a lot of their supply chain, particularly for battery-making (and electric vehicles are basically big batteries on wheels). That means we’re probably going to see [even more electric vehicle plants](#) being built *somewhere*.

So what does rural Virginia need to do to be more competitive for some of these jobs? Some answers should be obvious by now: It needs more prepared sites, it needs a workforce, it needs renewable energy, it needs broadband. There’s one other thing it needs, though, that doesn’t get much attention: Its local governments need more people working on economic development.

Employers don’t just fall out of the sky. They are typically courted and wooed, and the state’s not set up to do all that. Perhaps the most astonishing map that El

Koubi showed off was this one:

## MOST RURAL LOCALITIES HAVE ONE OR FEWER FULL-TIME ECONOMIC DEVELOPERS



\*Unknown localities did not participate in the self assessment; research of non-participant LEDOs indicated that 57% did not have a full-time economic developer  
Source: 2020 LRCI Self-Assessment

VEDP | 18

Counties in red have one or fewer staffers working on economic development. Counties in gray didn't report. Courtesy of VEDP.

Look how many counties have “one or fewer” economic development specialists in their local governments. And look where they are – they are generally the counties that are most in need of new employers. El Koubi also showed off research that found – not surprisingly – that localities with more economic developers had more economic development. This, by the way, was a study confined to rural localities, so we're comparing rural localities with each other, not with the urban crescent. Rural localities with two or more economic developers were almost twice as likely to score economic development “wins” than rural localities with fewer than two specialists.

These stats are new but I've heard this phenomenon cited before. When the Senate Finance Committee held a retreat in Roanoke last November, there was chatter that maybe the state should help fund economic development positions in

some rural localities. I'd like to see more discussion of the pros and cons of that. The state essentially funds teachers; most rural localities get most of their school funding from the state through a complicated funding formula. Should the state have a similar funding formula (although perhaps less complicated) to help fund economic development officials in these counties that presently don't have anyone? Put another way, is it in the state's interest that so many counties have no one dedicated to economic development?

I'm reminded of the [old Fram oil filter ad](#) (or perhaps [the song by the Squirrel Nut Zippers](#)): "You can pay me now or you can pay me later." The lack of economic development sets in motion consequences that often lead to the state paying for other things (such as paying more for the local school system, as the county's "ability to pay" declines). This is one of those issues with interesting cross-pressures: Republicans are understandably loath to encourage more state spending, yet the localities with one or fewer economic developers are almost exclusively Republican-voting counties. Should the state change that? To go back to Bradley's quote at the beginning: It doesn't do much good to talk strategy if there's no one to carry it out.

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# The Progress-Index

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## NEWS

# Chipping away at the 'granddaddy of blight': Petersburg starts Ramada Inn demolition



**Bill Atkinson**

The Progress-Index

Published 3:23 p.m. ET Aug. 22, 2022 | Updated 10:15 a.m. ET Aug. 25, 2022

PETERSBURG — Finally.

Years after it ceased becoming a high-rise hotel and turned into a political eyesore that everyone wanted gone but no one would ever do it, a crane began tearing down Monday a portion of the blighted Ramada Inn that had become a dilapidated "gateway" into Petersburg. Moments after a ceremonial check was presented and gold-painted sledgehammers broke apart cinderblocks, the crane began pulling apart a portion of the canopy and old pool that sat above the entry to the once-gleaming lodging facility that has stood at the East Washington Street exit off Interstate 95 for almost a half-century.

Just like the check and the sledgehammers, the crane demolition was largely ceremonial. Actual knocking down of the hotel is slated to begin within the next couple of weeks, and weather permitting, it will be completely down by the end of the year.

"We should have a great Christmas present for the city, and that is green space here," state Sen. Joe Morrissey, D-Richmond, said. "We don't know what will happen after that, but this will be gone."

Morrissey and Del. Kim Taylor, R-Dinwiddie County, presented the city with a check for \$2.6 million in state budget funds that are expected to cover the cost of buying back the property from the developer who vowed to turn it into a new luxury hotel, hiring a Culpeper County demolition firm to take it down in sections and haul the debris away, and repurpose the property into what Petersburg Mayor Sam Parham said he hopes is a new hotel that can serve as hosts for potential future investments.



"We've got a lot of development that's going on and a lot of business people that's coming in ... and we don't have anywhere in the city for them to stay, and we're tired of sending people outside the city," Parham said. Since the Ramada has been vacant, two other major hotel chains, Holiday Inn and Best Western, closed and were torn down, and the only adjacent lodging was at lower-end economy places that drew more criminal activity than actual visitors.

Parham called the Ramada remnants "the granddaddy of blight" in Petersburg.

The takedown will occur in sections, according to the city. Demolition Services Inc. of Culpeper began moving heavy equipment onto the site in recent weeks and will spend the next four months taking the hotel down at a cost of \$479,000. Plans call for the foundation of the building to stay in place so that Petersburg could shop for future development. Due to environmental concerns, had the foundation of the building been removed — for an extra \$100,000 — then no commercial development could have taken place the property is located in a flood plain.

The Ramada was built in 1973 and underwent several reincarnations before closing for good in 2012. Five years ago, developer Christopher A. Harrison bought the property with the intent of opening a new hotel there, but after several stops and starts, and threats of legal action, the city and Harrison reached an agreement last June to buy back the site for around \$1.2 million, about \$500,000 more than Harrison paid for it. The buyback essentially ended a lawsuit the city brought against Harrison to either build it up or tear it down.

**No 'ill will':** Owner of Petersburg's rundown Ramada Inn talks efforts to end deal

Hours before and blocks away from the Ramada Inn site, Gov. Glenn Youngkin was addressing a "Partnership for Petersburg" summit at the city library when he mentioned the Ramada takedown, which was part of the 42 initiatives in the plan.

"We are taking a sledgehammer to [it] this afternoon," Youngkin said. The remark drew a standing ovation from the 300 or so in attendance.

Youngkin, who did not attend the Ramada ceremony but did sign the budget that included the demolition funding, said after the library event that the demolition was a good-faith step in showing the citizens of Petersburg that both the city and the state are serious about turning things around.

"I have to say there are already business groups forming who want to develop that site," the governor said. "When you press forward in a comprehensive way, you unleash innovation."



You bring partners from all over. It's not government-led, it's government-supported. And we are going to unleash innovation and free enterprise."

Youngkin, who made his fourth trip to Petersburg in eight months as governor, then turned to Parham, who was standing alongside him.

"Guess what, Mr. Mayor?" he said. "You're going to have the most awesome development on that site. I don't know what it's going to be yet, but I can tell you when the people of Petersburg and private initiatives and support from all of us come together, I can't wait to see what comes on that site."

[https://richmond.com/news/state-and-regional/govt-and-politics/local-governments-struggle-with-new-reality-in-hiring-retaining-workers/article\\_df4e1c73-c193-5ee8-bbe7-cd7602aad03d.html](https://richmond.com/news/state-and-regional/govt-and-politics/local-governments-struggle-with-new-reality-in-hiring-retaining-workers/article_df4e1c73-c193-5ee8-bbe7-cd7602aad03d.html)

ALERT TOP STORY

## Local governments struggle with new reality in hiring, retaining workers

Michael Martz

Jul 29, 2022



Gov. Glenn Youngkin  
ALEXA WELCH EDLUND/TIMES-DISPATCH

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Michael Martz

US Jobs Number Tops Estimates

Gloucester County has grant funding in hand to rebuild **a public boat landing**, but no engineer to design the project or put it out to bid, so now the county is likely to hire an outside contractor.

The county, **east of Richmond on the Middle Peninsula**, also is planning a half-million-dollar project to make a public sidewalk more accessible to people with disabilities. Without an engineer, the deputy county administrator is working on it under his previous credentials as an engineer, and a county planner is taking a state course to bolster her background in landscape architecture to help with the design.

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-

The situation is particularly vexing because Gloucester had two public engineers to handle capital projects, but both resigned, one in winter and one in spring.

“They left for different jobs with more flexibility,” County Administrator Carol Steele said Thursday.

Public sector employers face big challenges in recruiting and retaining employees in a job market transformed by the COVID-19 pandemic, which has put a premium on flexible working conditions, particularly the opportunity to perform jobs from home.

“A mass exodus of workers to the private sector, increased competition in the job market, and a rise in job openings to the Silver Tsunami of recent retirees have combined to force public sector HR departments into a vicious hiring cycle,” said NEOGOV, a private HR consultant, in **a recent report** that showed a 45% increase in open public sector jobs this year over last year.

“The resulting consequences are burnout in existing public sector employees, cost increases due to overtime pay, and a sharp reduction in services provided to citizens,” it concluded in a report titled “The Quiet Crisis in the Public Sector.”

In Gloucester, the staff turnover rate is up to 16% since July 1, 2021, with 68 employees leaving a workforce of 419 people — most of them by resignation, some by retirement.

“We’re stable, but we have vacancies that are hurting us badly,” Steele said. “We are taking longer at getting some things done, having to postpone other projects and having to go to private contractors for things we normally do in-house.”

Dean Lynch, executive director of the Virginia Association of Counties, said he hears similar concerns from county leaders across the state.

“The real problem with local government is recruiting and retaining employees, particularly for positions involving public safety and first responders,” Lynch said.

“We’re just having a very difficult time competing with the private sector.”

The state is providing some relief in its new two-year budget with a 5% pay increase each year for state employees, teachers and state-supported local employees, including sheriff's deputies. The first of those raises will take effect on Monday.

"They are still having trouble recruiting, but keep in mind there's light at the end of the tunnel," said John Jones, executive director of the Virginia Sheriffs' Association, who said he hears nothing but appreciation from sheriffs for the General Assembly's actions to raise deputy pay in the budget that took effect July 1.

The salary increases for deputies, as well as other state-supported local employees, will help counties that were already adopting pay plans to hire and keep public safety employees and emergency responders.

"We've gotten more competitive, so we've stabilized a lot there," said Richmond County Administrator Morgan Quicke, whose Board of Supervisors adopted a pay plan last fall to avoid losing professionals, such as emergency medical technicians in a county that stopped relying on volunteer rescue squads 13 years ago.

Quicke said the pressure is coming mostly in professional jobs, not administrative positions, and it's gotten harder for local governments to compete against private employers that offer more flexible work environments as well as better pay.

But local government officials say their constituents generally expect public employees to be in the office, not working from home.

"They want to see the faces of the people who serve the government," Quicke said.

At the state level, Gov. Glenn Youngkin has drawn criticism from many employees — but not all — for trying to restore an "office-centric environment" by establishing a new policy for teleworking, effective July 5, that allows a combination of remote and in-person work, subject to approval in some cases by his own chief of staff.

The Virginia Governmental Employees Association released its second survey of employees on the telework policy, raising concern that reduced opportunities for telework could drive employees out of state government into private sector jobs or early retirement.

Of those surveyed, more than three-quarters expressed dissatisfaction with the new policy, and 58% said it has made them “rethink state employment” for jobs in the private sector or retirement.

The Youngkin administration said more employees are teleworking under the new policy than before the pandemic, although Secretary of Administration Lyn McDermid acknowledged that the state still doesn’t know how many people worked remotely during the pandemic or for how long.

Administration officials also point to **a new survey** by the L. Douglas Wilder School of Government and Public Affairs at Virginia Commonwealth University that showed 50% of those polled approve of the governor’s telework policy and 43% disapprove.

Virginia employs about 105,000 people in full-time jobs, although that includes faculty and employees at public colleges and universities, which set their own telework policies for workers who are not directly covered by the state personnel office. The new telework policy also doesn’t apply to employees of legislative or judicial agencies, independent commissions and authorities.

The administration ultimately determined that more than 21,314 positions were eligible to be performed remotely. Of those, 8,866 were approved for telework, with 89% allowed to work remotely one or two days a week.

“What we’ve seen throughout this process is that when given the choice, the vast majority of eligible state employees chose to work in the office at least three days per week,” Youngkin said after the policy took effect early this month.

However, more than 750 people responding to the VGEA survey — 63% — said they had been told they could ask for no more than one or two days, and about one-third said their request had been denied or reduced.

“This new policy is regressive, restrictive, and meant to dissuade employees from utilizing it,” said one employee quoted by the VGEA.

Some employees cheered the policy, including a public health nurse who said remote work put more pressure on co-workers who have to remain in the office.

“We are not only performing our very demanding ever changing job but pick up everyone else’s slack as well,” the employee responded.

“We are basically servants for the state of Virginia,” another employee said. “We need to be in the public eye — not working at home.”

But even employees who support Youngkin’s policy express concern about its effect on the state’s ability to keep workers and hire new ones.

“In the past month, I’ve lost 2 GREAT employees due to the new policy,” said one supervisor, who supported the policy. “They both had their telework days reduced by the new policy, so they BOTH took opportunities in private industry.”

Data on public sector employment is either scarce or confusing. The Virginia Employment Commission recently released data — collected from employers by the Bureau of Labor Statistics — that showed government employers losing 15,500 jobs in Virginia from May to June. That included 7,800 jobs in local government, 3,200 at the state level and 4,500 at the federal level.

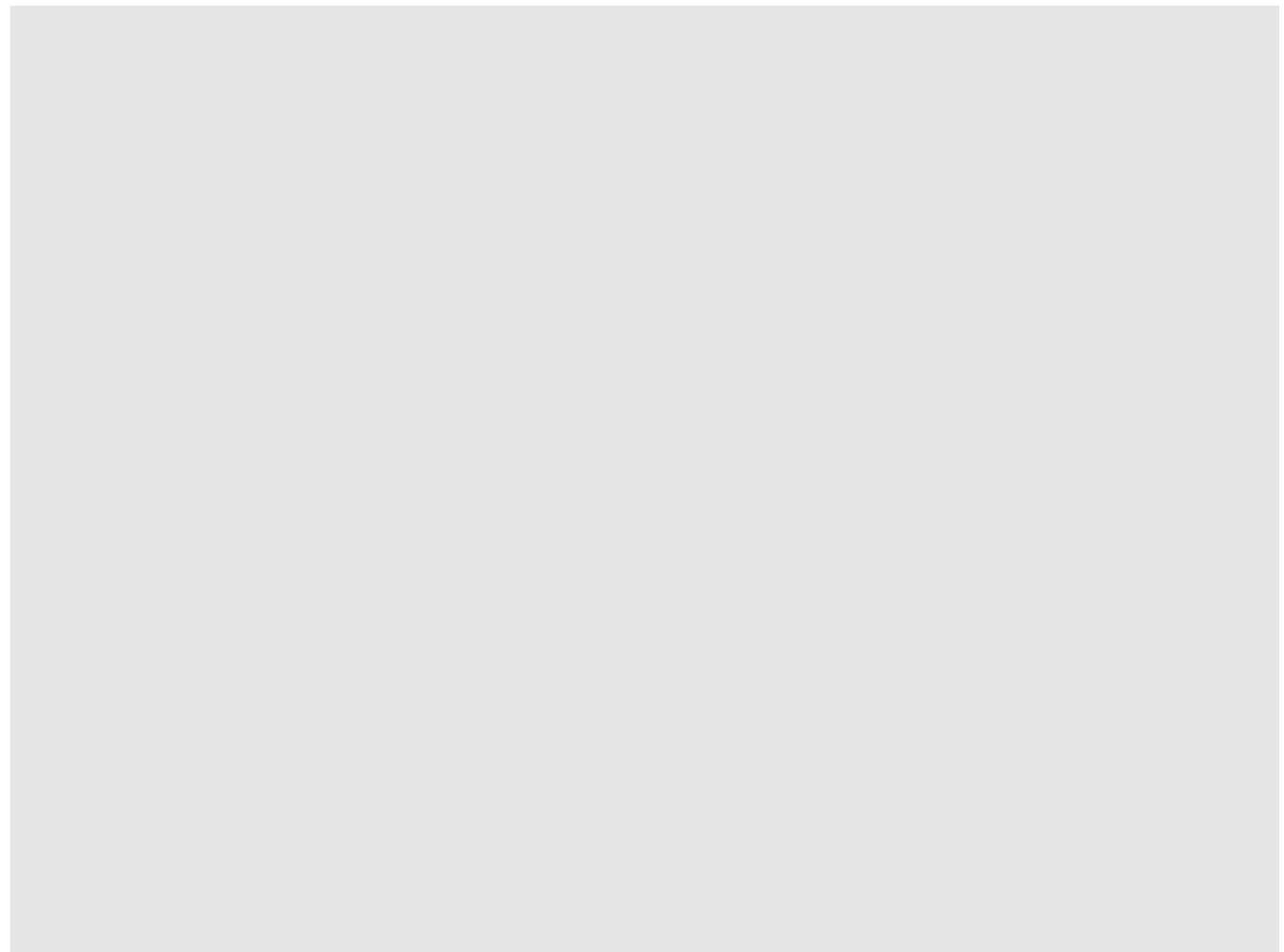
But the same survey showed local governments in Virginia gaining 1,000 jobs since the previous June and state government adding 900 the previous 12 months. Only federal job losses appeared consistent, at 4,200 lost from June 2021 through June 2022.

For the state, the Department of Human Resource Management said state government lost 1,066 employees to resignation or retirement from May 1 through June 30, while adding almost 1,700 during the same period.

Local government officials said the job loss numbers reported by the VEC seemed way high for localities. The numbers were seasonally adjusted, but the VEC said the local numbers could reflect teacher departures after the school year ended. In Richmond alone, the school system recently reported 176 teacher vacancies.

The Virginia Education Association said it won't have final numbers on teacher job vacancies until fall, but policy analyst Chad Stewart said, "We're seeing a lot more vacancies across the board for all positions than we did a year ago.

"So we're quite concerned about it."



"We're stable, but we have vacancies that are hurting us badly," said Gloucester County Administrator Carol Steele.



- Cynthia Hudson, Sands Anderson, and long-time state and local government official
- Charles Hartgrove, University of Virginia Institute of Government Director, and long-time state and local government official

## About the VML Annual Conference

Join your fellow VML members in our amazing capital city this fall for our annual gathering for local government officials and staff to learn from each other and subject matter experts from a variety of disciplines and agencies necessary to support effective local governments in Virginia.

Both the Annual Conference and the Mayors Institute that precedes it will be held at the Downtown Marriott in Richmond. The city will hold a Host Night the evening of Sunday, October 2<sup>nd</sup> at the reimagined [Virginia Museum of History and Culture](#) in the heart of Richmond's Museum District.

- The link to register to VML's **Mayors Institute** (Oct. 1-2) is [available here >](#).
- The link to register for VML's **Annual Conference** (Oct. 2-4) is [available here >](#).

Also available on the above pages are links to [reserve hotel room blocks](#) and to view the [preliminary agendas](#). Keep an eye on these pages as more information will be added in the coming weeks!

**VML Contact:** Rob Bullington, [rbullington@vml.org](mailto:rbullington@vml.org)

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## VML policy committees complete their meetings



VML's [five policy committees](#) have completed their meetings for 2022. The committees met over the last two weeks to hear from speakers about current and emerging issues, discuss the issues and their impact on Virginia communities, and develop

policy language and potential legislative positions on select topics.

Once the committees give final approval to their draft policy statements, those statements will be posted on the VML website (and members notified of their posting) so they can review them before they are discussed and adopted during the VML Annual Business Meeting during the VML 2022 Annual Conference in Richmond (October 2-4).

The proposed legislative recommendations will be taken up by VML's Legislative Committee at its next meeting in early September. The positions adopted by the Legislative Committee will be posted to the VML website before they are taken up during the VML Annual Business Meeting.

This year's policy committees received briefings and discussed issues including school construction funding; local and regional jail per diems and adherence to Code of Virginia requirements regarding state prisoner pick-ups from jails; behavioral health alternative transportation and custody issues; transportation funding; energy and environmental issues updates; the impact of changes in state tax policies (i.e., the grocery tax); short-term rentals; affordable housing; FOIA issues; cybersecurity requirements on local governments; broadband procurement; and traffic stop laws and impact on local public safety.

VML thanks all the local officials who participated on policy committees this year.

**VML Contact:** Janet Areson, [jareson@vml.org](mailto:jareson@vml.org)

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## Economy

# Tax Cuts: Economic boon or local government disaster?

Each local government in Virginia faces a unique set of fiscal challenges. A jurisdiction with a growing population and tax base has a different set of challenges than cities and rural localities experiencing declining population and growth.

In 2020 and 2021, the United States Congress appropriated historic amounts of financial aid to Virginia's state government

# Draft Policy—subject to Commission review and approval

## Commission Policy #1

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**TITLE:**

Procedures for Electronic Participation in Commission on Local Government Meetings and All-virtual Meetings

**EFFECTIVE DATE:**

September 9, 2022

**AUTHORITY:**

§ 2.2-3708.3 of the Code of Virginia

**DEFINITIONS:**

The following definitions shall apply to the words used in this policy unless otherwise noted:

“Participate electronically” means participating in an in-person meeting through electronic communication from a location that is not the location advertised in the public meeting notice.

“Electronic communication” means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

“In-person meeting” refers to a meeting that has not been approved as an all-virtual meeting pursuant to this policy. All in-person meetings must have a quorum assembled in one physical location.

“All-virtual meeting” refers to a meeting that has been approved as an all-virtual meeting pursuant to this policy. During an all-virtual meeting, all commissioners, staff, and the public may participate through electronic communication. No more than two commissioners may be assembled in one physical location that is not open to the public.

**POLICY STATEMENT:**

It is the policy of the Commission on Local Government that individual commissioners may participate electronically in meetings of the Commission by electronic communication means as permitted by Virginia Code § 2.2-3708.3. This policy shall apply to the entire membership and without regard to the identity of the commissioner requesting remote participation or the matters that will be considered or voted on at the meeting.

It is further the policy of the Commission that, in furtherance of the convenience of the commissioners, staff, and the public, the Commission should schedule all-virtual meetings when the laws of the Commonwealth and the workload of the Commission allow for such meetings.

## **Draft Policy—subject to Commission review and approval**

The Commission believes that members of the public should be able to easily participate in open meetings both in person and through electronic communication. The Commission will therefore make efforts to allow for public comment and viewing through electronic communication at all in-person and all-virtual meetings.

### **PARTICIPATING ELECTRONICALLY DURING IN-PERSON MEETINGS:**

#### Process for making requests

Each individual commissioner shall request approval to participate electronically from the Commission Chair, either directly or through Commission staff. Each request shall state a specific reason for electronic participation. Electronic participation is limited to the following reasons:

1. A commissioner is unable to attend the meeting because of a temporary or permanent disability or other medical condition that prevents their ability to physically attend such meeting,
2. A medical condition of a family member of a commissioner requires the commissioner to provide care that prevents their physical attendance,
3. A commissioner's principal residence is more than 60 miles from the location of the meeting, or
4. A commissioner is unable to attend due to an emergency or personal matter – the specific nature of which shall be shared with the Chair

If a member is requesting to participate electronically pursuant to reasons 1, 2, or 3, they must make their request 10 business days before the meeting. The chair may make exceptions to this rule in his or her discretion.

If a member is requesting to participate electronically pursuant to reason 4, they may make their request up to 15 minutes before the scheduled start time of the meeting.

#### Other requirements

Whenever an individual commissioner is to participate electronically, the following conditions must be present:

1. A quorum of the Commission must be physically assembled at the primary or central meeting location.
2. There must be arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

If a commissioner is participating electronically, the minutes shall reflect which of the four reasons the commissioner has given.

If a commissioner is participating electronically pursuant to reason 4 (above), the minutes shall also include the specific nature of the personal matter cited by the member. Furthermore, such electronic participation is limited by law to two of the Commission's meetings or 25% of the

## **Draft Policy—subject to Commission review and approval**

meetings per year, whichever is greater. There is no limit to the number of times a commissioner may participate electronically due to other allowable reasons.

### Automatic approval; vote required if challenged

Individual participation from a remote location shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act. If a member's participation from a remote location is challenged, then the Commission shall vote whether to allow such participation and the results of such vote shall be recorded in the minutes with specificity.

If a commissioner is approved to participate electronically the meeting minutes shall reflect the remote location from which the commissioner participated; however, the remote location need not be open to the public and may be identified by a general description.

### **ALL-VIRTUAL MEETINGS:**

The Commission on Local Government may convene all-virtual meetings in accordance with the Virginia Freedom of Information Act. An indication of whether a meeting will be in-person or all-virtual will be included in the meeting notice. The type of meeting will not be changed once the notice is published unless the commission provides a new notice in accordance with the Virginia Freedom of Information Act.

At the final regular meeting of the calendar year, the Commission shall discuss potential dates for all-virtual meetings during the following calendar year based on the planned work load of the Commission and the schedules of the commissioners. The Commissioners shall then, by consensus, suggest two meetings that may be held as all-virtual meetings.

At least 10 business days prior to any regular or special meeting, the Chair of the Commission shall confirm with staff whether a meeting will be an in-person meeting or an all-virtual meeting. Staff will then communicate the type of meeting the other commissioners and the public. There is a strong preference to follow the suggested schedule created at the end of each calendar year. However, the chair may, to the extent allowed by law, change a scheduled in-person meeting to an all-virtual meeting in extenuating circumstances. The Chair may also change a scheduled all-virtual meeting to an in-person meeting at the request of other commissioners and/or commission staff.

The Commission may not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of its meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting.

### **CLARIFICATIONS:**

The limits on remote participation due to emergencies or personal matters (reason 4) are separate from the limits on all-virtual meetings and will be counted separately.

## **Draft Policy—subject to Commission review and approval**

If a commissioner's request to participate electronically is disapproved, said commissioner may still continue to monitor the meeting from the remote location, but may not participate and may not be counted as present for the meeting.

Three or more members may be gathered in one location during an all-virtual meeting so long as that location is open to the public.

### **LEGAL INTENT:**

These Procedures for Electronic Participation in Commission on Local Government Meetings and All-virtual Meetings have been enacted to fulfill the legal requirements of a policy under Va. Code 2.2-3708.3(D)

### **APPROVAL AND REVIEW:**

This Commission policy was updated and approved on \_\_\_\_\_, 2022.

### **SUPERSESION:**

This Commission policy replaces the Commission's previous Electronic Participation Policy that was adopted on January 7, 2020.

**DHCD DIRECTOR:** Bryan Horn

Code of Virginia  
Title 15.2. Counties, Cities and Towns  
Chapter 32. Boundary Changes of Towns and Cities

## Article 2. Agreements Defining Annexation Rights.

### **§ 15.2-3231. Agreements between towns and counties authorized; effect; provisions.**

Towns in counties, or parts of counties, not immune from annexation may voluntarily enter into agreements with such counties for the purpose of defining the town's annexation rights in the future. Upon the execution of such an agreement by both the town and the county, the town shall permanently renounce its right to become a city. Any such agreement shall provide for the regular and orderly growth of the town in conjunction with the county and for an equitable sharing of resources and liabilities. It shall also provide that the town may annex at regular intervals by the adoption of an ordinance.

1979, c. 85, § 15.1-1058.1; 1997, c. 587.

### **§ 15.2-3232. Hearing before Commission on Local Government required; notice.**

A. Once the town and county governing bodies have decided upon the terms of an agreement pursuant to § 15.2-3231, the proposed agreement shall be presented to the Commission on Local Government. The Commission shall conduct a public hearing at some location in the town or the county and interested parties may appear and offer evidence or comments. The hearing shall be duly advertised in some newspaper having general circulation in the county and the town once a week for two successive weeks, stating the time and place of the hearing, and summarizing the terms of the proposed agreement. The second advertisement shall appear not less than six days nor more than 21 days prior to the hearing. The Commission shall then determine whether the proposed agreement provides for the orderly and regular growth of the town and county together, for an equitable sharing of the resources and liabilities of the town and the county, and whether the agreement is in the best interest of the community at large, and shall so advise the governing bodies in a written opinion.

B. In addition to the advertising required in subsection A, written notice of the Commission on Local Government's hearing shall be given by the town at least 10 days before the hearing to the owner, owners, or their agent of each parcel of land included in the area proposed for annexation under the terms of the agreement. One notice sent by first-class mail to the last known address of such owner, owners, or their agent as shown on the current county real estate tax assessment books or current county real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the clerk of the town shall make an affidavit that such mailings have been made and file such affidavit with the Commission. Nothing in this subsection shall be construed as to invalidate any subsequently adopted agreement because of the inadvertent failure by the town to give written notice to the owner, owners, their agent or the occupant of any parcel in the area proposed for annexation.

1979, c. 85, § 15.1-1058.2; 1997, c. 587; 2003, c. 173.

### **§ 15.2-3233. Adoption of agreement.**

After the Commission has advised the governing bodies of the two jurisdictions of its determination, and regardless of whether its determination is favorable, such bodies may adopt the agreement. If the Commission's determination is unfavorable, however, the governing bodies shall first conduct an additional joint public hearing advertised as provided in § 15.2-3232. Adoption of the agreement by both governing bodies will operate permanently to divest the town of its right to become a city.

1979, c. 85, § 15.1-1058.3; 1997, c. 587.

### **§ 15.2-3234. Inability to agree; petition to Commission on Local Government.**

In the event the governing bodies of the town and county cannot reach a voluntary agreement as to future annexation rights, the town may, by ordinance duly adopted by a majority vote of its governing body, petition the Commission on Local Government for an order establishing the rights of the town to annex territory by ordinance under specified agreed terms. A copy of such petition and ordinance shall be served on the attorney for the Commonwealth, or county attorney, if there is one, and on the chairman of the board of supervisors of the county. The county shall file its response to such petition with the Commission within sixty days after receipt of service thereof.

After the time for filing of a response by the county has elapsed, the Commission shall establish a date, time and place for a hearing, to be conducted in the county or the town, at which the parties, and any resident or property owner of either the county



or the town may appear and present evidence or comment on the rights petitioned for by the town. After receiving such evidence, and making such further investigation as it deems appropriate, and based upon the criteria set forth in § 15.2-3209, the Commission shall enter an order which grants such rights to the town, either upon the terms set forth in the petition or upon some modified basis. The order shall in no event grant to the town the right to annex county territory by ordinance more frequently than once every five years.

1979, c. 85, § 15.1-1058.4; 1997, c. 587.


#### § 15.2-3235. Appeal.

Any order of the Commission regarding future annexation rights of a town shall become final unless either the town or the county or five percent of the registered voters in either jurisdiction, within thirty days of the entry of the order, petition the circuit court to review such order. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as provided by Chapter 30 (§ 15.2-3000 et seq.) of this title. The special court shall review such decision and enter any order it deems appropriate. A final order of either the Commission or the court granting the town the right to future annexation through the periodic adoption of ordinances shall operate permanently to divest the town of its rights to become a city.

1979, c. 85, § 15.1-1058.5; 1997, c. 587.

8/25/202

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| <b>CLG Review Calendar</b>  | <b>Timeline 1 - Resolution passed before November meeting</b> | <b>Timeline 2 - Resolution passed after November meeting</b> |
|---|---|--|
| November 2022*  | Parties Presentation to CLG                                   |  |
| December 2022   |   |  |
| January 2023  | Staff Review**  | Parties Presentation to CLG                                  |
| February 2023   |   |  |
| March 2023  | Public Hearing ***  | Staff Review**   |
| April 2023  | Staff Review  |  |
| May 2023  | Agreement Approval  | Public Hearing**   |
| June 2023   |   | Staff Review   |
| July 2023   |   | Agreement Approval   |
| <p>* CLG to potentially change to all virtual meeting, depending on availability of Commissioners and Parties</p> <p>* Staff needs 4 months from the initial presentation by the parties to write the report. This would include the public hearing to be held during the next regularly scheduled commission meeting</p> <p>*** The Commission is required by Code to have a public, fact finding hearing in the locality. The date for this hearing is TBD.</p> |   |  |

**PROCEDURES  
OFFICE OF REGULATORY MANAGEMENT  
FOR THE  
REVIEW OF STATE AGENCY REGULATIONS**

**Introduction**

These regulatory review procedures for the Office of Regulatory Management (ORM) in the Commonwealth of Virginia are in furtherance of Executive Order 19 (EO 19) as signed by Governor Glenn Youngkin on June 30, 2022. These procedures govern all rulemaking actions and other regulatory activities initiated on or after July 1, 2022, and are adopted in satisfaction of the requirements in § 2.2-4013 of the Code of Virginia.

These procedures apply to all agencies in the executive branch, including all agencies and agency actions that were previously deemed not to be subject to executive branch review because of an exemption from Article 2 of the Administrative Process Act. These policies and procedures shall apply in addition to those already specified in the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*), agencies' public participation guidelines, and agencies' basic authorizing statutes.

All executive branch agencies, including agencies and regulations with a full or partial exemption from either Article 1 or Article 2 of the Administrative Process Act, must comply with the requirements of this Executive Order pertaining to other regulatory activity, including petitions for rulemaking; meeting notices, agendas and minutes; the periodic review of existing regulations; and guidance documents. These other regulatory activities must be posted on the Virginia Regulatory Town Hall website.

The ORM is officially located within the Office of the Governor and therefore is an extension of the Governor's regulatory review prerogative. ORM's review is in addition to reviews required under statute by the Department of Planning and Budget and by the individual Secretariats.

**Acronyms and Definitions**

The following acronyms and definitions are set out for ease of use and represent only a summary of terms and acronyms related to the regulatory review process. More detailed descriptions and definitions appear in the Administrative Process Act.

“Agency” means any agency, board, or other instrumentality of state government that is authorized to promulgate regulations or develop guidance documents pursuant to the Administrative Process Act.

“Agency Background Document” (ABD) refers to a form completed by agencies and uploaded on the Virginia Regulatory Town Hall website for each regulatory stage in order to describe and explain the regulatory action. The form for each stage is available on the Town Hall.

“Administrative Process Act” (APA) refers to § 2.2-4000, *et seq.* of the *Code of Virginia*, which contains provisions setting forth the process for promulgating regulations in Virginia.

“Benefit-Cost Analysis” means an identification of the benefits and costs resulting from a regulatory action, which were considered by the agency before initiating the action. These impacts include, but are not limited to, the anticipated impact on (a) the promulgating agency, other state agencies, and localities; (b) the regulated community directly affected by the action; and (c) any other businesses or entities likely to be directly affected; (d) and the general public. An analysis is prepared by the promulgating agency, according to instructions issued by the Department of Planning and Budget, and posted on the Virginia Regulatory Town Hall website.

“Day” means a calendar day.

“Department of Planning and Budget” (DPB) refers to the state agency that reviews regulatory proposals for economic and policy impact and manages the Virginia Regulatory Town Hall website.

“Economic Impact Analysis” (EIA) refers to a report prepared by DPB that evaluates the estimated costs and benefits of a regulatory proposal.

“Emergency rulemaking” refers to the process used (1) when there is an emergency situation as determined by the agency and the Governor approves the use of an emergency regulation, or (2) when a Virginia statutory law, Act of Assembly (such as the Appropriation Act), federal law, or federal regulation requires that a state regulation be effective in 280 days or less from its enactment.

“Executive branch agency” means any agency, board, or other instrumentality of state government in the Executive Department listed in the Appropriation Act.

“Executive Branch Review” refers to the review of a regulatory proposal at various stages by the executive branch before the regulatory proposal is published in the *Virginia Register of Regulations* and is available for public comment.

“Exempt rulemaking process” refers to the process that may be used by an agency when a rulemaking is exempt from the promulgation requirements of Article 2 of the APA.

“Expedited regulations” are regularly occurring regulations, typically on an annual basis, such as wildlife or fishing quotas.

“Fast-track rulemaking process” refers to the process utilized for regulations that are expected to be noncontroversial. The fast-track process generally involves an action with a single fast-track stage.

“Mandate” refers to a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.

“Notice of Intended Regulatory Action” (NOIRA) refers to the first stage in the standard rulemaking process.

“Office of the Attorney General” (OAG) refers to the state agency headed by the Attorney General. The OAG reviews regulatory proposals at the emergency stage, the fast-track stage, the proposed stage, and the revised proposed stage. In addition, the OAG must review a proposal at the final stage if changes with substantial impact, as determined by either the promulgating agency or DPB, have been made since the proposed stage or the revised proposed stage.

“Office of Regulatory Management” (ORM) refers to the entity within the Governor’s Office that coordinates the review of all exempt and non-exempt regulations submitted by executive branch agencies.

“Regulation” refers to a chapter in the *Virginia Administrative Code*.

“Regulatory package” refers to draft regulatory text, the ABD, and other information as set forth in instructions issued by DPB. As part of ORM’s full review of all exempt and non-exempt actions, the regulatory package submitted by agencies (at the proposed, final, or fast track stage) shall include an economic analysis: benefit-cost analysis, local government impact analysis, inter-agency impact analysis, economic impacts on families, and the count of regulatory requirements proposed to be changed as a result of the action. For expedited regulations, the need for a full economic analysis for any regulatory action will be determined based upon that action’s anticipated cost impacts and other factors as determined by ORM.

“Regulatory requirement” means any action required to be taken or information required to be provided in accordance with a statute or regulation in order to access government services or operate and conduct business.

“Regulatory stage” and “regulatory action” refer to the basic components of the regulatory process. A stage is one discrete step in the regulatory process. An action is a group of related stages, each of which involves the same regulatory change.

“Rulemaking or regulatory process” refers to the four types of rulemaking processes in Virginia: (1) standard, (2) fast-track, (3) emergency, and (4) exempt.

“Standard rulemaking process” refers to the default rulemaking process in Virginia. If a regulatory change does not meet the criteria for exempt, fast-track, or emergency rulemaking, it goes through the standard rulemaking process, generally consisting of an action with three stages: NOIRA, proposed, and final.

“Unified Regulatory Plan” refers to the annual compilation of all anticipated rulemaking actions during the next fiscal year, reviewed by the Secretary and then approved or modified by ORM.

“The *Virginia Register of Regulations*” (*Register*) refers to the official legal publication, published by the Office of the Registrar of Regulations, which provides information about proposed and final changes to Virginia’s regulations.

“The Virginia Regulatory Town Hall website” (Town Hall) refers to the website managed by DPB and used by agencies to post regulatory proposals and to facilitate the regulatory review process.

“*Virginia Administrative Code*” (VAC) refers to Virginia’s official legal publication for regulations.

### **Policy and Principles**

The executive branch agencies of the Commonwealth must consider, review, and promulgate numerous regulations each year. These procedures set out the regulatory policies to ensure the efficiency and quality of Virginia’s regulatory process. All state employees who draft, provide policy analysis for, or review regulations shall carefully consider and apply the principles outlined below during the regulatory development and review process.

#### **General**

- A. All regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth and be necessary to protect the public health, safety, and welfare. Accordingly, agencies shall consider:
  - 1. The use of user fees or permits;
  - 2. The use of information disclosure requirements, rather than regulatory mandates, so that the public can make more informed choices;
  - 3. The use of performance standards in place of required techniques or behavior; and
  - 4. The consideration of reasonably available alternatives in lieu of regulation.
- B. Where applicable, and to the extent permitted by law, it shall be the policy of the Commonwealth that only regulations necessary to interpret the law or to protect the public health, safety, or welfare shall be promulgated. These principles shall be considered when an agency performs its periodic review of regulations pursuant to §§ 2.2-4007.1 and 2.2-4017 and these procedures.
- C. Regulations shall be clearly written and easily understandable by the regulated community and the public.
- D. Regulations shall be designed to achieve their intended objective in the most efficient, cost-effective manner.

## **Regulatory Development**

- A. Regulatory development shall be based on the best reasonably available and reliable scientific, economic data, and other information concerning the need for, and consequences of, the intended regulation. Agencies shall specifically cite the best reasonably available and reliable scientific, economic, or statistical data as well as any other information in support of regulatory proposals.
- B. Regulatory development shall be conducted in accordance with the statutory provisions related to impact on small businesses. DPB shall work with state agencies to address these requirements during the regulatory review process, including notifications, as appropriate, to the Joint Commission on Administrative Rules.
- C. During regulatory development, agencies shall consider the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth, the impact on other state agencies and local governments, as well as the cost of compliance to the general public.

## **Public Participation**

- A. Agencies shall actively seek input for proposed regulations from interested parties, stakeholders, citizens, and members of the General Assembly.
- B. In addition to requirements established in Article 2 of the APA, all executive branch agencies shall post all rulemaking actions and related materials, including meeting notices and minutes, on the Town Hall website to ensure that the public is adequately informed of rulemaking activities.
- C. All legal requirements and guidelines related to public participation shall be strictly followed to ensure that citizens have reasonable access and opportunity to present comments and concerns. Agencies shall inform interested persons of (1) Town Hall's email notification service that can send information regarding specific regulations, regulatory actions, and meetings about which citizens are interested, and (2) the process to submit comments in Town Hall public comment forums. Agencies shall establish procedures that provide for a timely written response to all comments and the inclusion of suggested changes that would improve the quality of the regulation.

## **Unified Regulatory Plan**

- A. All executive branch agencies shall prepare a unified regulatory plan by July 1 of each year that lists all anticipated rulemaking actions during the subsequent state fiscal year. For 2022 the plan will be due on October 1.
- B. The plan will be prepared according to instructions issued by DPB, and will delineate each anticipated type of rulemaking by topic. After submission, the plan will either be



approved or modified by ORM. Regulations that become necessary after the publication of the unified regulatory plan may be submitted to ORM for potential inclusion in the plan. All final, approved plans will be posted on the Virginia Regulatory Town Hall website.

### **Other**

- A. Agencies, as well as reviewing entities, shall perform their tasks in the regulatory process as expeditiously as possible and shall adhere to the timeframes set out in these procedures.
- B. Regulations are subject to periodic evaluation, review, and modification, as appropriate, in accordance with the APA, policy initiatives of the Governor, and legislation.
- C. Each agency head will be held accountable for ensuring that the policies and objectives specified in EO 19 and these procedures are followed. Agency heads shall ensure that information requested by DPB, a Cabinet Secretary, ORM, or the Office of the Governor, in connection with EO 19, is provided on a timely basis. Such information may include additional data on entities affected by the agency's regulations and the impact of regulations thereon. Incomplete regulatory packages may be returned to the appropriate agency by DPB.

### **Executive Branch Review Process**

Regulations shall be subject to Executive Branch Review as specified herein. All agency regulatory packages shall be submitted via the Town Hall website. For each stage of the regulatory development process, agencies shall complete and post the applicable ABD on Town Hall to describe the regulatory action and inform the public about the substance and reasons for the rulemaking.

If any regulatory package is submitted to DPB, and DPB determines that the package is not substantially complete pursuant to instructions issued by DPB, then DPB may return the regulatory package via the Town Hall website to the agency. The agency may resubmit the package after all missing elements identified by DPB have been added or addressed. After approval by the Governor, agencies shall submit regulatory packages to the Registrar for publication within 14 days of being authorized to do so.

In rulemakings where there are two or more stages, the filing of each stage shall be submitted on the Town Hall website as expeditiously as the subject matter allows and no later than 180 days after the conclusion of the public comment period for the prior stage.

## A. Standard Rulemaking Process

### 1. NOIRA Stage

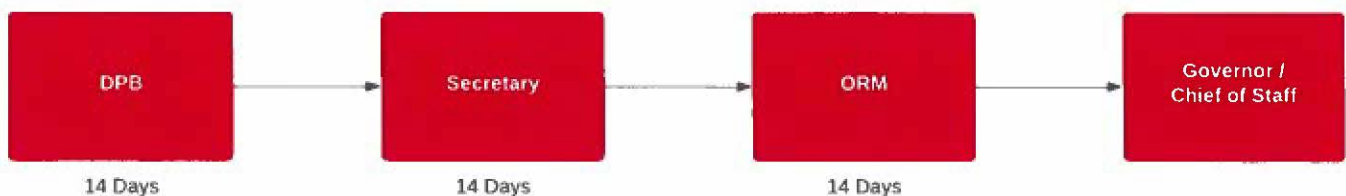
The NOIRA shall describe the nature and scope of the regulatory changes being considered and the relevant chapters and sections of the VAC. This package shall include draft regulatory text if it is available.

The order of Executive Branch Review shall be as follows:

- a. DPB shall review the regulatory package to determine whether it complies with all requirements of this Executive Order and applicable statutes, and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete regulatory package from the agency, the Director of DPB or his designee shall prepare a policy analysis containing the results of DPB's review. If the Director of DPB or his designee advises the appropriate Cabinet Secretary and the Governor that the regulatory package presents issues requiring further review, it shall be forwarded to the Cabinet Secretary.
- b. The Cabinet Secretary or his designee shall review the regulatory package within 14 days and forward a recommendation to ORM.
- c. ORM shall review the regulatory package within 14 days and forward a recommendation to the Governor.
- d. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove NOIRAs on behalf of the Governor. The agency shall be authorized to submit the NOIRA to the *Register* for publication after the Governor approves the NOIRA.

Public comments received following publication of the NOIRA should be encouraged and carefully considered in developing the proposed stage of a regulatory proposal.

NOIRA Style



## **2. Proposed Stage**

Following the initial public comment period required by § 2.2-4007.01 of the *Code of Virginia*, and taking into account the comments received, the agency shall prepare a regulatory package.

At this stage, the regulatory package, including the text of the proposed regulation, shall be in as close to final form as possible, including completed review by all appropriate regulatory advisory panels or negotiated rulemaking panels. New issues that were not disclosed to the public when the NOIRA was published shall not be addressed at the proposed stage unless they result from an intervening mandate that is directly related to the nature and scope of the regulatory changes addressed in the NOIRA.

The order of Executive Branch Review shall be as follows:

- a. OAG will review the regulatory package and produce a memorandum assessing the agency's legal authority to promulgate the regulation, identifying any specific mandate that requires the regulation, and determining whether the content of the proposed regulation conflicts with applicable law. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed regulation. After the OAG has completed its review, the regulatory package will be submitted to DPB.
- b. DPB shall review the regulatory package to determine whether it complies with all requirements of these procedures and applicable statutes, and other policies of the Commonwealth as set forth herein. Consistent with § 2.2-4007.04 of the *Code of Virginia*, within 45 days of receiving a complete regulatory package, the Director of DPB or his designee shall prepare an EIA and a policy analysis containing the results of DPB's review.
- c. The Cabinet Secretary or his designee shall review the regulatory package within 14 days and forward a recommendation to ORM.
- d. ORM shall review the regulatory package within 14 days and forward a recommendation to the Governor.
- e. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove proposed regulations on behalf of the Governor.

#### Proposed Stage



### 3. Revised Proposed Stage (Optional)

Following the public comment period of the proposed stage, required by § 2.2-4007.03 of the *Code of Virginia*, the agency may wish to make additional changes and/or receive additional public comment by publishing a revised proposed regulation (as allowed by § 2.2-4007.03 of the *Code of Virginia*). The order of Executive Branch Review for the revised proposed stage shall be the same as for the proposed stage, with the exception that DPB will perform its duties within 28 days.

### 4. Final Stage

Following the approval of the proposed regulation or the revised proposed regulation, and taking into account all comments received during the prior stage, the rulemaking entity shall prepare a final regulation. New issues that were not disclosed to the public when the NOIRA was published shall not be addressed at the final stage unless they result from an intervening mandate that is directly related to the nature and scope of the regulatory changes addressed in the NOIRA.

If any change with substantial impact as determined by either the promulgating agency or DPB, has been made to the regulatory text between the proposed and final stages, the agency shall obtain a letter from the OAG certifying that the agency has authority to make the additional changes.

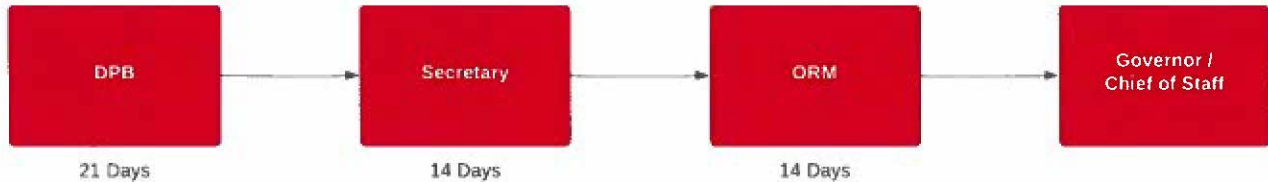
The order of Executive Branch Review shall be as follows:

- a. DPB shall review the regulatory package to determine whether it complies with all requirements of these procedures and applicable statutes, and other policies of the Commonwealth as set forth herein. In particular, DPB shall assess the effect of any substantive changes made since the publication of the proposed regulation and the responsiveness of the agency to public comment. Within 21 days of receiving a complete final regulatory package from the agency, the Director of DPB or his designee shall prepare a policy analysis containing the results of DPB's review.
- b. The Cabinet Secretary or his designee shall review the regulatory package within 14 days and forward a recommendation to ORM.



- c. ORM shall review the regulatory package within 14 days and forward a recommendation to the Governor.
- d. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove proposed final regulations on behalf of the Governor.

Final Stage



## B. Fast-Track Rulemaking Process

The fast-track rulemaking process is for regulations that are expected to be noncontroversial. After a fast-track regulation has been submitted on Town Hall, Executive Branch Review will proceed as follows:

1. The OAG will review the regulatory package and produce a memorandum assessing the agency’s legal authority to promulgate the regulation, identifying any specific mandate that requires the regulation, and determining that the content of the proposed regulation does not conflict with applicable law. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the fast-track regulation. After the OAG has completed its review, the regulatory package will be submitted to DPB.
2. DPB shall review the regulatory package to determine whether it complies with all requirements of these procedures and applicable statutes, and with the policies of the Commonwealth as set forth herein. DPB shall make an initial determination within 10 days whether the regulatory package is appropriate for the fast-track rulemaking process and communicate this decision to the agency. After the initial determination, the Director of DPB or his designee shall have 30 days to prepare a policy analysis and EIA, and advise the appropriate Cabinet Secretary and the Governor of the results of the review. At any point during the review, DPB may request a determination by the Governor’s Office if there is any question as to whether a regulatory package is appropriate for the fast-track process. The Governor or his designee retains final discretion to disapprove use of the fast-track rulemaking process when the Governor or his designee determines it is controversial or otherwise not in the public interest.
3. The Cabinet Secretary or his designee shall review the regulatory package within 14 days and forward a recommendation to ORM.

4. ORM shall review the regulatory package within 14 days and forward a recommendation to the Governor.
5. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove fast-track regulations on behalf of the Governor.

**Fast Track Rulemaking Process**



**C. Emergency Rulemaking Process**

Emergency regulations may be promulgated by an agency in accordance with § 2.2-4011 of the *Code of Virginia* if the agency determines there is an emergency situation, consults with the OAG, and obtains the approval of the Governor or his designee. Emergency regulations may also be promulgated where Virginia statutory law, an Act of Assembly such as the Appropriation Act, federal law, or federal regulation requires that a state regulation be effective in 280 days or fewer from its enactment and the regulation is not exempt from the APA. If the agency plans to replace the emergency regulation with a permanent regulation, it should file an Emergency/NOIRA stage.

The order of Executive Branch Review shall be as follows:

1. The OAG will review the regulatory package and produce a memorandum assessing the agency’s legal authority to promulgate the regulation, identifying any specific mandate that requires the regulation, and determining that the content of the proposed regulation does not conflict with applicable law. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed emergency regulation. After the OAG has completed its review, the regulatory package will be submitted to DPB.
2. DPB shall review the regulatory package to determine whether it complies with all requirements of these procedures and applicable statutes, and other policies of the Commonwealth as set forth herein. Within 21 days of receiving a complete emergency regulatory package from the agency, the Director of DPB or his designee shall prepare a policy analysis, and advise the appropriate Secretary and the Governor of the results of the review. For non-executive branch agencies, DPB shall forward the package directly to the Governor.
3. The Cabinet Secretary or his designee shall review the regulatory package within 14 days and forward a recommendation to ORM.



4. ORM will review the regulatory package within 14 days and forward a recommendation to the Governor.
5. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove emergency regulations on behalf of the Governor.

An emergency regulation shall be effective for up to 18 months and may be extended for up to an additional six months if, despite the rulemaking entity’s best efforts, a permanent replacement regulation cannot become effective before the emergency regulation expires. If an agency wishes to extend an emergency regulation beyond its initial effective period, the agency shall submit an emergency extension request to the Governor’s Office via the Town Hall website as soon as the need for the extension is known, but no later than 30 days before the emergency regulation is set to expire. The emergency extension request must be granted prior to the expiration date of the emergency regulation, pursuant to § 2.2-4011(D) of the *Code of Virginia*.

**Emergency Rulemaking Process**



**D. Exempt Rulemaking Process**

Exempt regulations may be promulgated by an executive branch agency in accordance with applicable sections of the APA, the Virginia Register Act, the agency’s public participation guidelines, and the agency’s basic authorizing statutes. All exempt regulatory packages must be posted on the Town Hall website according to instructions issued by DPB. This requirement is advisory for non-executive agencies or boards that authorize a regulatory action to be promulgated without executive branch review.

The order of Executive Branch Review shall be as follows:

- a. OAG will review the regulatory package and produce a memorandum assessing the agency’s legal authority to promulgate the regulation, identifying any specific mandate that requires the regulation, and determining whether the content of the proposed regulation conflicts with applicable law. Any specific citation identified by the agency as an exemption from the APA will be clearly noted.
- b. The agency will post the regulatory package on Town Hall, pursuant to instructions issued by DPB, at which time the Secretary will be notified of the posting.
- c. After the regulatory package has been posted on Town Hall, ORM shall



review the regulatory package within 14 days and forward a recommendation to the Governor.

- d. The Chief of Staff to the Governor or his designee is hereby authorized to approve or disapprove exempt regulations on behalf of the Governor.

**Exempt Rulemaking Process**



**Periodic Review of Existing Regulations**

All existing state regulations promulgated by executive branch agencies, including those promulgated pursuant to an exemption from the APA, shall be reviewed every four years to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law, as regarding § 2.2-4007.1 of the *Code of Virginia*.

The periodic review shall include: (1) the continued need for the regulation; (2) the nature and complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; (5) an economic analysis including benefit-cost analysis, local government impact analysis, economic impacts on families, and the count of regulatory requirements embedded in the regulation; and (6) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

When conducting a periodic review, the agency shall post the notice on the Town Hall website which will then be published in the *Register*. The agency shall provide a minimum of 21 days for public comment after publication of the notice in the *Register*. No later than 120 days after the close of the public comment period, the agency shall post the report of findings on Town Hall and then publish the report in the *Register*.

The periodic review shall include (1) a review by the Attorney General or his designee to ensure general statutory authority to promulgate regulations and identify any specific authority for the regulation under review; (2) a review by ORM; and (3) a determination by the Governor or his designee, whether the regulations are (a) necessary for the protection of public health, safety and welfare and (b) clearly written and easily understandable.

The periodic review must be conducted on the Town Hall website according to instructions issued by DPB, and may be accomplished either by using the (1) stand-alone periodic review process; or (2) the standard rulemaking process during the course of a comprehensive review of the regulation. Use of the stand-alone periodic review process is

preferred, and is required if the agency has no plans to begin a comprehensive review using the standard rulemaking process. Accordingly, an agency can fulfill the periodic review requirement as follows:

1. **Stand-alone Periodic Review Process:** An agency can use the stand-alone process to publish a notice of the periodic review and solicit public comment, and then subsequently report the result of the review. When a regulation has been reviewed using this process, a periodic review shall not be required until four years after the agency reported the result of the periodic review on Town Hall.
2. **Standard Regulatory Process:** An agency can use the NOIRA to publish a notice of the periodic review and solicit public comment. When the proposed stage is submitted for Executive Branch Review, the ABD shall report the result of the periodic review. When a regulation has been reviewed in this manner, a periodic review shall not be required until four years after the effective date of the regulatory action used to conduct the review, consistent with the requirements of § 2.2-4007.1 of the *Code of Virginia*.

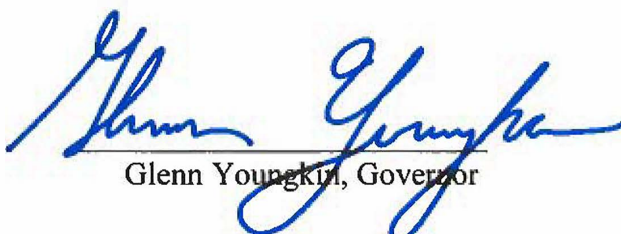
### **Posting of Petitions, Meetings, and Documents**

Agencies shall post petitions for rulemaking and decisions to grant or deny the petitions on the Town Hall website, in accordance with the timeframes established in § 2.2-4007 of the *Code of Virginia*. Agencies shall post the notice of, and agenda for, a public regulatory meeting on Town Hall at least seven days prior to the date of the meeting, except if it is necessary to hold an emergency meeting in which case the agenda shall be posted as soon as possible.

In addition, agencies that promulgate regulations and keep minutes of regulatory meetings shall post such minutes of those meetings on the Town Hall website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the *Code of Virginia*. For all guidance documents, as defined by § 2.2-4101 of the *Code of Virginia*, agencies shall post on Town Hall either (a) the guidance document itself or (b) a link to the guidance document on the agency's website. Any changes to a guidance document or a guidance document link shall be reflected on Town Hall consistent with the requirements of § 2.2-4002.1 of the *Code of Virginia*. Guidance documents or guidance document links that are not subject to the public comment provisions of § 2.2-4002.1 must be updated on the Town Hall website within 10 days after the content of the guidance document or the link is changed.

### **Approval of the Governor**

These procedures for the Office of Regulatory Management as required by Executive Order 19 are hereby approved.



Glenn Youngkin, Governor

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## **NEW MANDATES**

### ***Compulsory Order***

#### **Education, Department of**

Post-Graduate Opportunities for Students SOE.DOE187

Each school board shall ensure that information on post-graduate opportunities, as made available by the Department of Education, is readily available to each high school student and distributed to each high school student who expresses an interest in attending an institution of higher education or completing another training program described in this section.

Epinephrine Administration at Early Childhood Education and Care Entities SOE.DOE188

Each early childhood care and education entity must implement policies for the possession and administration of epinephrine in every such entity to be administered by any nurse at the entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction.

Broadband Access Report SOE.DOE189

Beginning in the 2022 school year and in each school year thereafter through the 2025 school year, each school board shall submit, no later than December 31, an annual report to the Virginia Department of Education and the Virginia Department of Housing and Community Development listing each student's 9-1-1 address that does not have broadband access, as defined by the broadband guidelines set out by the Virginia Department of Housing and Community Development for its Virginia Telecommunication Initiative.

Sexually Explicit Content Policies SOE.DOE190

Each school board shall adopt policies no later than January 1, 2023 on for ensuring parental notification of any instructional material that includes sexually explicit content and include information, guidance, procedures, and standards relating to (i) ensuring parental notification; (ii) directly identifying the specific instructional material and sexually explicit subjects; and (iii) permitting the parent of any student to review instructional material that includes sexually explicit content and provide, as an alternative, nonexplicit instructional material and related academic activities to any student whose parent so requests. Such policies shall be consistent with model policies developed by the Department of Education, with the option to be more comprehensive.

#### **Emergency Management, Department of**

Local Government Data Security Reporting SPSHS.VDEM019

Local governments shall report all (i) known incidents that threaten the security of the Commonwealth's data or communications or result in exposure of data protected by federal or state laws and (ii) 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 public

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body or other public bodies. Such reports shall be made to the Virginia Fusion Intelligence Center within 24 hours from when the incident was discovered.

## State Police, Department of

Critically Missing Adult Reporting      SPSHS.VSP021

Local law enforcement agencies must, within two hours of receipt, enter reports of critically missing adults into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the report to the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

## No State Oversight

Acceptance of Gifts and Funding for Voter Education and Outreach Prohibited      NSO.172

Local electoral boards and all offices of the general registrar are prohibited from soliciting or using funds for the purpose of voter education and outreach programs, voter registration programs, or any other expense incurred to conduct elections. This prohibition shall not prohibit using a polling place owned by a private individual or nongovernmental entity or the acceptance of a federal grant.

## ***Non-Discretionary Condition of Aid***

### Conservation and Recreation, Department of

Resilient Virginia Revolving Loan Fund      SNHR.DCR027

The Resilient Virginia Revolving Loan Fund (Fund) offers loans and grants to private property owners and local governments for resiliency projects. The fund has been established to anticipate, prepare for, respond to and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment. Moneys in the Fund shall be used to make loans to finance or refinance the cost of any project or be dispersed as grants or appropriations to local governments to pay for the cost of any project. In addition, loans and grants may be made from the Fund to a local government that has developed a funding program to provide low-interest loans or grants to any persons of the Commonwealth eligible for projects for resilience purposes. The Code of Virginia § 10.1-603.28, for the purpose of this loan or grant, defines that a “Project” means (i) home upgrades for resilience purposes, home buyouts necessary for the construction of mitigation or resilience projects, relocations, and buyout assistance for homes, all including multifamily units; (ii) gap funding related to buyouts in order to move residents out of floodplain hazard areas and restore or enhance the natural flood mitigation capacity of functioning floodplains; (iii) assistance to low-income and moderate-income homeowners to help lower flood risk through structural and nonstructural mitigation projects, or other means; (iv) loans and grants to persons for hazard mitigation and infrastructure improvement projects for resilience purposes; and (v) projects identified in the Virginia Flood Protection Master Plan or the Virginia Coastal Resilience Master Plan. Based on this definition, these funds cannot be used for post-hazard mitigation.

### Forestry, Department of

Forest Sustainability Fund      SAF.DOF005



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Local governments applying for disbursements from the Forest Sustainability Fund shall submit by November 15 of each year (i) a copy of its ordinance and (ii) the total revenue forgone by the locality in the prior fiscal year due to the use value assessment and taxation for real estate devoted for forest use.

### ***Regulation of Optional Activity***

#### Conservation and Recreation, Department of

Outdoor Recreation Legacy Partnership SNHR.DCR029

The Outdoor Recreation Legacy Partnership Program (ORLP), a competitive grant program administered under the authority of the federal Land and Water Conservation Fund (LWCF) Act, is a 50%-50% matching reimbursement program established to provide new or significantly improve recreation opportunities for economically-disadvantaged communities in densely populated urban areas that are under-served in terms of parks and other outdoor recreation resources.

#### Education, Department of

Governor's Schools and Prohibited Practices SOE.DOE186

Prohibits any academic year Governor's School or governing board member, director, administrator, or employee thereof from discriminating against any individual or group on the basis of race, sex, color, ethnicity, or national origin in the process of admitting students to such school. Each local school board that jointly manages and controls a regional academic year Governor's school shall collaborate to ensure that each public middle school that is eligible to send students to attend such Governor's school offers coursework, curriculum, and instruction that is comparable in content and in rigor in order to provide each student in each such middle school with the opportunity to gain admission to and excel academically at such Governor's school.

#### State Corporation Commission

Discontinuing natural gas service; municipal corporation to provide copies of notices to the State Corporation Commission IND.SCC004

A municipal corporation seeking to discontinue natural gas service and attempting to sell the system facilities shall provide copies of the required notices to the SCC concurrent of notice to customers and publication in a newspaper.

#### State Police, Department of

Facial Recognition Technology SPSHS.VSP022

Local law enforcement agencies, campus police, and the Virginia State Police seeking to use facial recognition technology must have policies and procedures in place. Local and campus police may develop their own policy or adopt the model policy developed by the Virginia State Police. Agencies planning to use such technologies must post the policies adopted by January 1, 2023. All agencies utilizing such technology must also publish an annual report.

#### Taxation, Department of

Authorization of Local Cigarette Tax SFIN.TAX023

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Any locality is authorized to levy taxes upon the sale or use of cigarettes. Any county cigarette tax imposed shall not apply within the limits of any town located in such county where such town imposes a town cigarette tax. However, if the governing body of any such town shall provide that a county cigarette tax, as well as the town cigarette tax, shall apply within the limits of such town, then such cigarette tax may be imposed by the county within such town. The maximum tax rate imposed by a locality on cigarettes pursuant to the provisions of this section shall be as follows: 1. If such locality is (i) a city or town that, on January 1, 2020, had in effect a rate not exceeding two cents (\$0.02) per cigarette sold or (ii) a county, then the maximum rate shall be two cents (\$0.02) per cigarette sold. 2. If such locality is a city or town that, on January 1, 2020, had in effect a rate exceeding two cents (\$0.02) per cigarette sold, then the maximum rate shall be the rate in effect on January 1, 2020.

### No State Oversight

#### Local Taxation of Solar Projects NSO.166

Generating equipment for solar photovoltaic projects five megawatts or less may be taxed by a locality at a rate not to exceed the real estate rate applicable in that locality. There shall be an exemption as follows: 80 percent of the assessed value in the first five years in service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service. A locality may not tax generating or storage equipment of solar photovoltaic projects that serve the electricity needs of that property upon which such solar facilities are located.

#### Local Tax Credits for Approved Volunteer Services NSO.173

Any locality may, by ordinance, provide a credit against local taxes and fees for any individual who provides approved volunteer services such as volunteer firefighting, EMS, and police services. Such credits may be applied to any tax, fee, or other charge imposed under Title 15.2, and any tax, fee, or other charge imposed by Subtitle III of Title 58.1 except property taxes or payments in lieu of property taxes.

#### Regulation of Alarm Systems NSO.174

A locality may require those persons providing or operating a battery-charged fence security system to obtain an alarm company permit and the corresponding fee and to require certain other requirements.

#### Classification of Real Property Owned by Certain Surviving Spouses NSO.175

Beginning in taxable year 2022, any locality may declare real property owned by a surviving spouse of a member of the Armed Forces of the United States who died in the line of duty with a line of duty determination from the U.S. Department of Defense, where such death was not the result of criminal conduct, and where the spouse occupies the real property as his principal place of residence and does not remarry, a separate class of property for local taxation of real property that may be taxed at a different rate than that imposed on the general class of real property, provided that the rate of tax is greater than zero and does not exceed the rate of tax on the general class of real property.

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Parental Opt Out of Masks in Public Schools NSO.177

Notwithstanding any law, regulation, rule, or policy implemented by a school board, school division, or school official, the parent of any child enrolled in a public secondary or elementary school or early childhood program may elect for a child to not wear a mask while on school property. The parent making such an election shall not be required to provide a reason or any certification of the child's health or education status. No student shall suffer any adverse disciplinary or academic consequences as a result of this parental election.

### **EXPANDED MANDATES**

#### ***Compulsory Order***

Agriculture and Consumer Services, Department of  
Public Animal Shelter SAF.VDACS004

Counties and cities must maintain or cause to be maintained a public animal shelter in accordance with regulations promulgated by the Board of Agriculture and Consumer Services. Agents of public animal shelters must make a reasonable attempt to identify ownership of companion animals by scanning for an embedded microchip at three separate times and to keep records of such scanning for at least 30 days.

Criminal Justice Services, Department of

Mental Health Awareness Response and Community Understanding Services (Marcus)  
Alert System SPSHS.DCJS040

The Department of Criminal Justice Services and the Department of Behavioral Health and Developmental Services, with the collaboration of law enforcement and other stakeholders, must develop and establish a mental health awareness response and community understanding services alert system using best practices, to be deployed throughout the Commonwealth in localities with populations exceeding 40,000. Smaller localities may, but are not required to, implement Marcus Alert protocols as of July 2022. The Marcus Alert System is to be utilized to promote a health response through the use of a mobile crisis response to behavior health crises whenever possible, or law enforcement backup of a mobile crisis response when necessary.

Education, Department of

Local School Division Policies SOE.DOE026

School divisions are required to maintain and follow up-to-date policies; ensure that policies take into account the views of teachers, parents, and other concerned citizens; and advise the public annually of the placement and availability of policies. A current copy of the school division's policies, including the Student Conduct Policy, must be posted on the school divisions' websites. School divisions must develop policies regarding the distribution of political materials by students and the administration of surveys or questionnaires to students. In any administration of a questionnaire or survey requesting students' sexual information, mental health information, medical information, information on health risk behaviors pursuant to 32.1-78.8, other information



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on controlled substance abuse, or any other information the school board deems sensitive in nature, the school board must provide notification, including certain information, to parents in writing not less than 30 days prior to its administration. Unless required by federal or state law or regulation, school personnel administering any such questionnaire or survey must not disclose personally identifiable information. School boards also must develop policies and procedures addressing complaints of sexual abuse of a student by a teacher or other school board employee; the identification and handling of suspected concussions in students, and sudden cardiac arrest prevention in student-athletes, to be updated biennially; the prohibited use and distribution of any tobacco product or nicotine vapor product on a school bus, on school property, or at on-site or off-site school-sponsored activity; and a non-restroom location designated in each school in the division for employees or students who are mothers to express milk for their babies through age one. In addition, each school board shall annually provide to parents educational information on eating disorders for public school students in grades five through twelve and health dangers of tobacco and nicotine vapor products in grades kindergarten through twelve, consistent with Department of Education guidelines. Each school board must adopt policies that prohibit the school board or any school board employee from denying a student the opportunity to participate in any extracurricular school activity because the student cannot pay for a meal at school or owes a school meal debt.

### Minimum Standards for New Construction and Renovation of School Facilities SOE.DOE032

All school construction or renovation plans must be approved in writing by the division superintendent with an architect or engineer's statement to insure compliance with minimum standards adopted by the State Board of Education and the Uniform Statewide Building Code. Plans must also have been reviewed by an individual or entity with professional expertise in building security and crime prevention through building design. The division superintendent's approval, architect or engineer's statements, all reviewers' comments, and final plans must be submitted to the Superintendent of Public Instruction. School divisions shall develop a procurement plan to ensure that all security enhancements to public school buildings are in compliance with the Uniform Statewide Building Code and Statewide Fire Prevention Code. Each school board shall provide to the Department of Education in a timely fashion the local data to develop and sustain a maintenance reserve fund tool to assist local school divisions in budget for school facilities needs.

### School Transportation SOE.DOE037

School divisions must comply with Federal Motor Vehicle Safety Standards and State laws and regulations for school buses, equipment, insurance, and driver qualifications if transportation is provided for children. Persons under age 18 are not permitted to drive school buses. Bus drivers must have written employment agreements and substitute bus drivers must meet the same requirements as regular drivers. Bus drivers must not use any wireless telecommunications device, whether handheld or otherwise, while driving a school bus, except in case of an emergency, or when the vehicle is lawfully parked and for the purposes of dispatching. Two-way radio devices and hands-free wireless devices authorized by the owner of the school bus are allowed. Schools must conduct drills in leaving buses in emergencies within 90 days of the start of the school term. Any new bus placed into service after July 1, 2007 must be equipped with certain warning devices and

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all buses must have a mechanical or electrical device for cleaning snow, rain, moisture, or other matter from the windshield. School buses must be painted yellow with the words "School Bus" on the front and rear in letters at least eight inches high. School divisions must ensure certain minimum amounts of vehicle liability insurance. The locality or school board shall be subject to action up to, but not beyond, the limits of valid and collectible insurance. School divisions must provide proof of required vehicle insurance to the Superintendent of Public Instruction in order to receive state school funds. If a school board sells or transfers school buses to another school division or purchases a used school bus, the buses must conform to construction and design specifications effective in the Commonwealth on the date of manufacture and have a valid Virginia State Police inspection. Buses sold or purchased must not have reached the end of useful life according to the school bus replacement schedule utilized by the Department of Education. Each school board that provides for the transportation of students and that has established a rule, regulation, or policy to exclude certain students who reside within a certain distance from the school at which they are enrolled from accessing such transportation shall establish a process for waiving, on a case-by-case and space-available basis, such exclusion given certain conditions. The school board of any school division may enter into agreements, meeting the conditions described in Code, with certain entities providing for the use of the school buses of such school division for certain public and private uses.

School Breakfast Program and National School Lunch Program      SOE.DOE043

School divisions are required to establish school breakfast programs in any school in which 25 percent or more of the students are approved in the federally funded free or reduced-price lunch program. In addition to paper-based applications for participation in such programs, schools divisions must provide a web-based application, to be prominently placed on its website. Each public elementary or secondary school must process each web-based or paper-based application for student participation in the School Breakfast Program or the National School Lunch Program administered by the U.S. Department of Agriculture within six working days after the date of receipt of the completed application. School divisions must annually report on their school breakfast programs to the Department of Education, including the numbers and socioeconomic characteristics of the students participating in the program.

Program of Instruction for Grades K-12      SOE.DOE044

School divisions must develop and implement a program of instruction and adopt a curriculum that is aligned to the Standards of Learning for grades K through 12, as prescribed by the Code of Virginia, and that meets or exceeds the requirements of the Board of Education. The program of instruction shall emphasize essential knowledge and skills, concepts and processes, and the development of the ability to apply such skills and knowledge to the preparation for eventual employment or appropriate training and lifelong learning. Each local school board shall provide a program of literacy instruction that is aligned with science-based reading research and provides evidenced-based literacy instruction to students in kindergarten through grade three. In addition, school divisions must implement middle school career exploration opportunities, career and technical education; educational objectives in middle and high school that emphasize economic education and financial literacy; early identification, diagnosis and assistance for students with

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reading and math problems; art, music, and physical education in the elementary instruction program; a program of physical fitness; a program of student services; and a program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test. Effective July 1, 2022, all kindergarten programs must be full-time and include 990 instructional hours. School divisions must also collect and analyze data to evaluate and make decisions about instructional programs.

## Drugs, Substance Abuse, Gambling, and Drunk Driving SOE.DOE047

School divisions are required to provide instruction concerning drugs and drug abuse in the elementary and secondary health education programs, gambling and the addictive potential thereof, and the public safety hazards and dangers of substance abuse, underage drinking, and drunk driving. They must also maintain ongoing in-service substance abuse prevention programs for all school personnel.

## Physical and Health Education SOE.DOE048

School divisions are required to emphasize physical and health education throughout their curricula in accordance with State regulations. In addition, local school boards must implement a program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Any physical education class offered to students in grades seven and eight must include at least one hour of personal safety training per school year in each such grade level that is developed and delivered in partnership with the local law-enforcement agency and consists of situational safety awareness training and social media education. Graduation requirements must include a minimum of two courses in Physical Education and Health.

## School Crisis, Emergency Management, and Medical Emergency Response Plan SOE.DOE090

School divisions are required to conduct safety audits in all public schools in accordance with a list of audit items developed by the Virginia Center for School and Campus Safety, and must develop a written school crisis, emergency management, and medical emergency response plan and shall include certain community stakeholders in the development of such plan. As part of each such audit, the school board shall create a detailed and accurate floor plan for each public school building in the local school division or shall certify that the existing floor plan for each such school is sufficiently detailed and accurate. The local school board must require its schools to collaborate with the chief law-enforcement officer of the locality or his designee when conducting required school safety audits. The local school board, or designee, and required stakeholders must also annually review the written school crisis, emergency management, and medical emergency response plans. The school division must certify this review in writing. Every public school must conduct at least one fire drill per week during the first month of school and at least one fire drill each month for the remainder of the school year. Every public school must conduct one lock-down drills during the first 20 days of school and one additional lock-down drill after the first 60 days of the school year. Pre-kindergarten and kindergarten students shall be exempt from mandatory participation in lock-down drills during the first 60 days of the school session. Local school boards

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shall develop policies to implement such exemption. Notwithstanding the foregoing provisions of this subsection, each pre-kindergarten and kindergarten student shall participate in each lock-down drill after the first 60 days of each school session. Every public school shall provide the parents of enrolled students with at least 24 hours' notice before the school conducts any lock-down drill. In addition to safety drills, school boards shall develop training on safety procedures in the event of an emergency situation on school property. Such training shall be delivered to each student and employee in each school at least once each school year. Each school safety audit committee must conduct a school inspection walk-through using a standardized checklist and make the checklist available to the chief law-enforcement officer of the locality upon request. A copy of all school safety audits must be made available for public review, and copies of such audits must be submitted to the Virginia Center for School Safety by the division superintendent no later than August 31st of each year.

### Excused Absences

SOE.DOE137

Local school boards must develop policies for excusing students who are absent for observance of a religious holiday. The policies shall ensure that a student shall not be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if the absence is verified in a manner acceptable to the school board. Any student who is absent from school due to their mental or behavioral health shall be granted, subject to Department of Education guidelines, an excused absence. Subject to guidelines established by the Department of Education, each school board (i) shall permit one school day-long excused absence per school year for any middle school or high school student in the local school division who is absent from school to engage in a civic event and (ii) may permit additional excused absences for such students who are absent for such purpose. Subject to guidelines established by the Department of Education, any student who is a member of a tribal nation and is absent to attend a pow wow gathering shall be granted one excused absence per academic year, provided that the parent of such student provides to the student's school advance notice of such absence in the manner required by the school.

### School Health, Training, and Reporting

SOE.DOE141

Each local school board shall ensure that a specific number of staff in school buildings with an instructional and administrative staff have current certification or training in emergency first aid, cardiopulmonary resuscitation, the use of an automated external defibrillator, and training in the administration of insulin and glucagon if one or more students is diagnosed with diabetes. Each local school board may develop a plan for the placement, care, use, and funding of an automated external defibrillator in every school. Each local school board must also permit each enrolled student diagnosed with diabetes and having parental consent and prescriber approval: to carry and use supplies and equipment for immediate treatment of high and low blood glucose levels and to self-check blood glucose levels on a school bus, on school property, and at a school-sponsored activity. No school board shall be required to suspend or expel any student who holds a valid written certification for the possession or use of cannabidiol oil or THC-A in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board. School divisions must provide training to school personnel having direct contact with students on

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the effects of blood-borne pathogens or certain other infections. School division superintendents shall report to their local health director any incident in which any employee is involved in a possible exposure-prone incident.

### Availability of In-person Instruction and Masking Policies SOE.DOE179

Each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. The bill permits, notwithstanding any other provision of law or any regulation, rule, or policy implemented by a school board, school division, school official, or other state or local authority, the parent of any child enrolled in a public elementary or secondary school, or in any school-based early childhood care and education program, to elect for such child to not wear a mask while on school property. The bill provides that no parent making such an election shall be required to provide a reason or any certification of the child's health or education status and no student shall suffer any adverse disciplinary or academic consequences as a result of this parental election.

### Elections, Department of

#### Electoral Board, Registrar, and Officers of Election SOA.ELECT002

Counties and cities are required to have an electoral board to manage elections, a general registrar to administer voter registration and elections, and officers of election to administer voting at polling places. Minutes of local electoral boards' meetings are required to be posted on the local electoral board's website or the official website of the county or city within seven working days of final approval. If a local public body does not own or maintain an official public government website, such public body shall make copies of all meeting minutes available no later than seven working days after final approval of the minutes (i) at a prominent public location in which meeting notices are regularly posted pursuant to subdivision C 2 of § 2.2-3707; (ii) at the office of the clerk of the public body; or (iii) in the case of a public body that has no clerk, at the office of the chief administrator. Officers of election must receive training at least once during the appointed term or whenever there is a change to election procedures that alters the duties or conduct of officers of election. The general registrar must complete a certification program through the Department of Elections. Each member of an electoral board must attend an annual training program provided by the State Board of Elections in the first year of their appointment and first year of any subsequent reappointment. General registrars must mail notices required by federal and state laws, enter applications to register and vote absentee, administer absentee voting including absentee voter satellite offices and drop-off locations and maintain accurate records using a federally mandated centralized computer database, the Virginia Election and Registration Information System (VERIS). On receipt of an application from an applicant who indicated that he will require assistance due to a visual impairment or print disability, the general registrar must offer to provide to the applicant a ballot marking tool with screen reader assistive technology. If electronic correspondence is used to forward absentee voting materials, the general registrar must use the official email address or fax number that is published on the Department of Elections website. The general registrar must



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provide access to information required under election laws and the Virginia Freedom of Information Act. Localities are responsible for the costs of conducting all general and special elections except presidential primaries reimbursed by the Commonwealth. Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election. Costs include postage and international email capacity. Absentee ballot return envelopes must have postage prepaid and provided by the general registrar. The local electoral board and general registrar shall conduct a risk-limiting audit within their jurisdiction at the date, time, and location noticed by the Department. A local electoral board may request that the State Board approve the conduct of a risk-limiting audit for a contested race within the local electoral board's jurisdiction. The local electoral board in coordination with the general registrar shall promptly report the results of a risk-limiting audit of any contested races subject to § 24.2-680 in their jurisdiction to the Department. City and county electoral boards are responsible for developing and annually updating written plans and procedures relevant to the security of VERIS. Failure to comply with security standards as set by the State Board of Elections may result in a city or county's limited access to VERIS. If limited access occurs, the city or county will have seven days to correct any deficiencies. Localities are also responsible for the costs of certain post-election activities, such as providing voter credit to the Department of Elections, and other post-election proceedings (recounts, contests, audits). County electoral boards are responsible for administering town elections. The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court. Finally, localities are responsible for implementing redistricting changes to local, state, and congressional districts and providing GIS maps to Department of Elections when changes are made. Statutory deadlines associated with the various responsibilities of the electoral boards and general registrars may result in increased costs. Localities must provide all election materials in the prescribed minority language, if more than 10,000 or over 5 percent of the total voting age citizens in a single political subdivision, who are members of a single language minority group, have depressed literacy rates, and do not speak English very well. If designated by the State Board of Elections as a covered locality, the locality must provide all voting and election materials in the identified minority language.

### Cancellation of Voter Registration SOA.ELECT005

General registrars shall cancel the registration of all persons known to be deceased or disqualified by reason of felony conviction or adjudication of incapacity, all persons known not to be U.S. citizens by reasons of reports from the DMV, and all persons for whom he receives official notification that the voter has moved outside of the Commonwealth. The general registrar shall provide the cancellation by mail to the address listed in the voter's registration record and by email to the email address listed on the voter's registration application, if provided. Registrars are required to notify persons whose registration has been denied within 14 days of such denial and allow for such persons to appeal the denial within 10 days of such notice. Regarding felony convictions, the registrar must process the State Board of Election's most recent list of persons convicted of felonies annually, monthly, and within 21 to 14 days before a primary or general election, cancel the registration of any voter shown to have been convicted of a felony who has not

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provided evidence that his right to vote has been restored, and send prompt notice of the cancellation. Regarding persons shown not to be U.S. citizens by the DMV's report, the registrar shall mail notice promptly informing the person of the DMV report, and permit the person to submit a sworn statement affirming that he is a U.S. citizen.

### Forensic Science, Department of

#### Handling and Submission of Physical Evidence Recovery Kits (PERKs) SPSHS.DFS006

A law enforcement agency that receives notice from a health care provider that a physical evidence recovery kit (PERK) has been collected from a victim of sexual assault who has elected to report the offense shall take possession of the PERK forthwith. The law enforcement agency must submit the PERK for analysis to the Department of Forensic Science within 60 days of receipt unless the PERK falls into one of five exceptions enumerated in subsection A of Va. Code § 19.2-11.8. When another state or local law enforcement agency located within the Commonwealth has taken over responsibility for the investigation related to the PERK, the PERK shall be transferred to such law enforcement agency and such law enforcement agency shall submit the PERK for analysis within 60 days of receipt unless the PERK meets an exception in clause (i) through (iv) of subsection A. Upon completion of the analysis, the Department of Forensic Science will return the PERK to the submitting law enforcement agency, which must store the PERK for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. For PERKs that meet the exception in clause (ii) or (iv) or that meet the exception in clause (iii) and (v) that are not transferred to the law enforcement agency outside of the Commonwealth in which the offense occurred or to the law enforcement agency that has taken over responsibility for the investigation related to the PERK, the law enforcement agency that received the PERK shall store such kit for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. Whether submitted for analysis or exempt from submission, the law enforcement agency shall store the PERK for a period of 10 years following the receipt of a written objection to the destruction of the kit from the victim. After the mandatory storage period has lapsed, the law enforcement agency must, unless the victim has made a written request not to be contacted for this purpose, make a reasonable effort to notify the victim of the intended destruction of the PERK no less than 60 days prior to the intended date of such destruction. In the absence of a response from the victim, or with the consent of the victim, the law enforcement agency may destroy the PERK or elect to retain it for a longer period. Upon request, the law enforcement agency shall provide to the victim, a parent or guardian of the victim if the victim was a minor at the time of the offense, or the next of kin of a deceased victim, information regarding the submission of the PERK for analysis, the status of any testing, the results of any analysis of the PERK, and the time frame for how long the kit will be held in storage and the victim's rights regarding such storage, unless disclosing such information would interfere with the investigation or prosecution of the offense, in which case the estimated date on which the information may be disclosed should be provided, if known. . The law enforcement agency shall inform the victim, parent, guardian, or next of kin of the unique identification number assigned to the PERK utilized by the health care provider and the personal identification number required to view the status of the PERK and shall provide information regarding the PERK Tracking System, unless disclosing this information would interfere with the investigation or prosecution of



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the offense, in which case the victim, parent, guardian, or next of kin shall be informed of the estimated date on which the information may be disclosed, if known. In the case of a PERK that was received by a law enforcement agency prior to July 1, 2016, and that has subsequently been submitted for analysis, the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim must be notified by the law enforcement agency of the completion of the analysis and shall, upon request, receive information from the law enforcement agency regarding the results of any analysis, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the estimated date on which the information may be disclosed should be provided, if known. A good faith attempt to locate the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be made if a current address for the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim is unavailable. A law enforcement agency is not required to disclose any information regarding the results of any analysis to a parent or guardian of a minor victim or to the next of kin of a deceased victim if such parent, guardian, or next of kin is the alleged perpetrator of the offense. Victims of sexual assault must be advised of their rights regarding PERKs. Law enforcement agencies are required to enter the identification number and other information pertaining to the kits received by their agency in the Physical Evidence Recovery Kit Tracking System and to update the status and location of each kit whenever such status or location changes.

### No State Oversight

Real Estate Reassessment Notification NSO.020

Local governments must provide notice by mail to each property owner of any reassessment of real estate, or of any change in the assessed value of any real estate in addition to the tax rate for the past two tax years, the total tax levies from the past two tax years, the percentage change from the past two tax years, and information on accessing and reviewing such information. Upon request of a taxpayer or their representative, the assessing officer shall also provide information regarding the methodology used to calculate the property's assessed value in addition to a written explanation or justification for an increase in the property's assessed value. Additionally, any locality that conducts its reassessment more than once every four years, must provide notice for any public hearing held on a different day and in a different notice from any notice published for the annual budget hearing. Local governments may adjust the tax rate for taxes due on or before June 30 of each year by May 15 of that tax year.

### ***Non-Discretionary Condition of Aid***

#### Juvenile Justice, Department of

Delinquency Prevention SPSHS.DJJ002

Each county and city participating in an approved grant shall be represented on a youth services citizen board. The board shall be appointed by the county or city governing body. The board may be composed of i) representative elected officials, representatives of public and private agencies serving youths, representatives of local law enforcement, and citizens not employed by government or service agencies, including one representative of the faith community and one representative of the business community, or ii) the community policy and management team or a similar entity, provided that such board or entity a) includes at least one representative of the faith community

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who is not employed by a government or service agency, one representative of the business community who is not employed by a government or service agency, and one representative of local law enforcement and b) complies with any other requirements imposed by the Department of Juvenile Justice. No board member may have an interest in any organization or program that receives grant funds under this Act. If the board establishes a youth advisory team, the board shall consult with and consider the recommendations of the youth advisory team prior to making recommendations to the local governing body.

### Transportation, Department of

Economic Development Access Road                      STO.VDOT006

Local governments participating in the Department of Transportation's Economic Development Access Roads Program must request funds by resolution of the governing body, comply with all applicable state and/or federal laws and regulations regarding environmental assessments and remediation at no cost to the program, provide right of way at no cost to the program. In addition, the locality shall adhere to the requirements of the Economic Development Access Program Guide, to include consideration of the number of jobs that will be created by the economic development project, the proposed capital investment by the private sector at the economic development site, and any other relevant criteria related to the economic development project. and The locality shall provide matching funds up to \$150,000 for allocations over \$700,000 yielding a maximum state allocation of \$850,000. These funds cannot be used for environmental assessments, right-of-way acquisition, or utility improvements and extensions. Changes to the Guidelines were made in 2022 as a result of legislative changes, which reflected recommendations of the Joint Legislative Audit and Review Commission's Report 536 (Infrastructure and Regional Incentives—Economic Development Incentives Evaluation Series).

Bridge Safety Inspection Standards                      STO.VDOT018

The National Bridge Inspection Standards apply to all bridges (greater than 20 feet in length) located on all public roads, private bridges that are connected to a public road on both ends, temporary bridges, and bridges under construction with portions open to traffic. Therefore, local governments must have all bridges and culverts subject to the qualifying conditions stated above under their jurisdiction inspected at regular intervals according to National Bridge Inspection Standards.

### ***Regulation of Option Activity***

#### Criminal Justice Services, Department of

Forfeited Asset Sharing Program (FASP)                      SPSHS.DCJS001

Local law enforcement agencies seizing drug-related cash or assets under State law and through State courts are required to comply with policies and procedures established by the Department of Criminal Justice Services. The Code of Virginia and applicable regulations require that 90% of forfeitures be returned to the localities that originated the seizures/forfeitures, and that the returned funds must be used for law enforcement purposes, which may include efforts to promote law enforcement or improve relationships between law enforcement and communities.

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### Juvenile Justice, Department of

Confidentiality of Juvenile Records Upon Entry of a Formal Agreement with the Department of Juvenile Justice to Provide Coordinated Services to Juveniles SPSHS.DJJ019

Any local department of social services may disclose the content of records and information learned during the course of a child-protective service investigation, child receiving foster care services, or during the provision of child-protective services to i) a court services unit, ii), the Department of Juvenile Justice, iii) a local community services board, or iv) the Department of Behavioral Health and Developmental Services who are providing treatment, services, or care for a child who is the subject of such records for a purpose relevant to the treatment, services, or care so long as the local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such children. Any court services unit or local community services board to which such records are disclosed shall not further disclose any information received unless such further disclosure is expressly required by law. Any formal agreement that is entered into by the local agencies and the Department of Juvenile Justice shall be reviewed by the Office of the Attorney General before such agreement may take effect.

### No State Oversight

Board of Zoning Appeals NSO.009

Local governments enacting zoning ordinances are required to establish a board of zoning appeals (BZA) to hear appeals on specific sections of the ordinances that create undue hardships on the public. Upon request of the BZA, a governing body shall consider appropriation of funds so that the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

Eminent Domain NSO.119

Localities must generally comply with the procedures for condemnation when exercising any power of eminent domain. Localities may not delay permits for improvements to properties for the purpose of allowing condemnation or to commence any process to consider condemnation or acquisition of the property. If a property is acquired in fee simple through eminent domain proceedings, and is subsequently not needed, or if construction of improvements has not commenced within 20 years, then the property must be offered for sale to the previous owners at the price paid by the condemner plus six percent interest, provided that the condemner may increase the price by the fair market value of any improvements made by the condemner. This is not applicable to properties acquired for transportation projects or to other transactions, including those initiated by local governments, which were commenced prior to July 1, 2011.

## **ELIMINATED OR REMOVED MANDATES**

### Behavioral Health and Developmental Services

Development of Comprehensive State Plan SHHR.DBHDS009

Community services boards (CSBs) and behavioral health authorities (BHAs) shall develop and submit to the Department of Behavioral Health and Developmental Services

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information for the preparation of the Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315 of the Code of Virginia.

## Conservation and Recreation, Department of

Trail Access Grant                      SNHR.DCR024

The Trail Access Grants program is a 100% reimbursement program being offered in 2021 for trail projects that increase access to trail opportunities for people with disabilities. The purpose of these grants are to help entities upgrade existing trails and trail features so that everyone can benefit from the local trail experiences already available to some. Under the ADA, projects under construction are already required to meet these obligations. Funding for the program comes from Virginia tax payer donations of all or portions of their income tax returns to the Open Space Conservation and Recreation Fund. Eligible Entities: County, city, and local governments and recreation departments, tribes, and recreation authorities.

## General Services, Department of

Virginia Public Procurement Act; Preference for energy efficiency and water  
efficient goods                      SOA.DGS006

State agencies may only select bids, if two or more bids are received for products that are energy star certified, meet FEMP designated efficiency requirements, appear on FEMP's low standby power product list, or are watersense certified. This preference also applies to local governments unless the local government provides a written statement that these products costs are unreasonable.