

Update

The newsletter of the
Virginia Municipal League

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The Joint Legislative Audit
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funding on Nov. 20 as this
issue of *Update* went to
press. VML will post a
summary of the report on
its web site as soon as
possible and will provide
details to members in the
next *Update*.

The budget

Gilmore orders cuts as revenue plummets Final phase-in of car tax will be delayed

Gov. Jim Gilmore has directed state agencies to reduce their budgets by 2 percent as a result of the latest state revenue forecast. Gilmore said that the state now expects to collect \$890 million less this year than was projected originally. This shortfall does not include any expenditure issues that will have to be addressed in the current budget. Gilmore made this announcement at a press conference Nov. 15.

When asked about the impact of the 2 percent cut, Gilmore said he has asked each cabinet secretary to survey their respective

agencies for recommendations regarding the spending reductions. He declined to speculate whether any areas would be exempt from cuts. Gilmore Chief of Staff Boyd Marcus indicated that these reviews would be conducted over the next three weeks, and information would be made available regarding the cuts once the final decisions have been made.

Gilmore also acknowledged that revenues will not meet the legal requirement to implement the final phase of the car tax

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House budget writers brace for cuts

Local governments should be prepared to face about a 7 percent cut in HB 599 funds during this fiscal year. A suggested cut of \$12.5 million in HB 599 allocations during fiscal year 2002 was included in a revenue/expenditure scenario presented to the House Appropriations Committee by its staff on Nov. 16.

Appropriations staff told the committee that the state's first-quarter revenue collections and revised economic forecast point to a substantial revenue shortfall during this biennium. The prediction followed Gov. Jim Gilmore's announcement the previous day of a reduction in projected revenues of \$890 million for this fiscal year. Revenues are down due to higher unemployment, declining corporate profits and weak consumer confidence. Although the governor's outlook assumes an economic recovery beginning in the late spring of 2002, House Appropria-

tions Committee staff said that if the recession lasted longer, revenues would be further affected.

In January, House and Senate budget writers will be faced with the largest, most complex caboose bill ever addressed in Virginia. A caboose bill consists of budget revisions to address revenue and expenditure issues for the remainder of the second fiscal year of a biennium. In the past, these bills generally have been limited in scope and impact, as well as in attention from anyone outside of the process. Since the House and Senate did not come to agreement on a budget revision last spring, they pushed most issues off to be addressed by a caboose bill. House budget staff admitted that they are looking at a budget gap of \$1.2 billion for the biennium that must be addressed in the caboose bill. This is the result of the \$890

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FROM THE CAPITOL

Gilmore cuts continued...

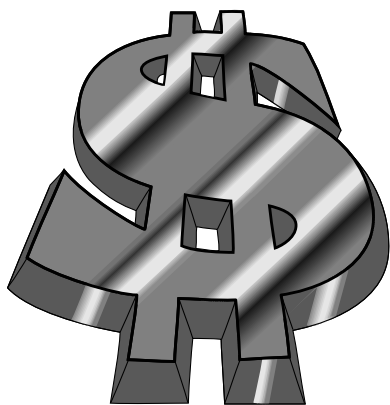
relief program in January. He said the savings associated with deferring the final phase were \$109 million. The governor reaffirmed his commitment to completing the phase-out, saying he expected to include it in the biennial budget that he will submit next month.

Regarding possible use of the state's "rainy day" fund, Gilmore said no decision had been made yet whether to tap into it. According to the governor, the fund contains more than \$900 million.

The governor's Advisory Council on Revenue Estimates will meet Nov. 19. Input from this group will affect the revenue estimates used to develop the biennial budget that the governor submits Dec. 19.

Gilmore said that his administration would brief Gov.-elect Mark Warner immediately on the revenue picture, and that Warner was also invited to attend the Nov. 19 revenue meeting. ❖

House budget continued...



million revenue shortfall and mandatory spending increases of \$331.5 million.

Potential actions that the appropriations staff suggested to close the budget gap included the \$12.5 million cut in HB 599, which would come as the result of a re-estimation of the projected general fund revenue collections for the biennium. Other potential actions to close the gap include selected agency budget cuts of 2 percent as announced by Gilmore on Nov. 15; obtaining \$259 million in federal Medicaid funds through a loan deal with Petersburg and Bedford County; garnering \$162 million in various savings as identified by the House in HB 3 offered in last spring's failed budget negotiations; and use of a portion of the state's rainy day fund.

The caboose bill also will reflect changes in education funding. With the downturn in sales tax revenues, the state is expected to return \$28 million less than budgeted in sales tax revenues this fiscal year. Sales tax revenues are a component of the formula used to calculate the state and local shares of the cost of education. When sales tax revenues go down, basic aid payments go up as an offset. This offset is expected to cost the state \$6.5 million in increased basic aid payments. Education funding also will need to be raised by another \$5.1 million to account for an increase in average daily membership (student enrollment). Finally, the House Appropriations Committee staff report lists adjusting basic aid downward by \$4.4 million to offset an increase in lottery profits as a potential action to close the budget gap. Another potential action listed is to use \$50 million in Literary Fund money to help pay the state's share of teacher retirement. Not included in any of these figures is the cost of giving any kind of salary increase for teachers and other educational personnel. Also not included

is whether the General Assembly would attempt to lower required contribution rates for retirement (as was attempted in the last session).

During the 2002-2004 biennium, House budget staff said the outlook currently calls for the state's fiscal condition to rebound in the late spring of 2002. This outlook predicts an impact of \$83 million in general revenue losses as the result of federal tax reform efforts and a sizeable fiscal impact resulting from federal education legislation that would impose new testing costs on states. While staff predicted a revenue growth rate of about 4.5 percent of each year of the new biennium, they warned that the projected growth rates could be insufficient to cover all of the needs.

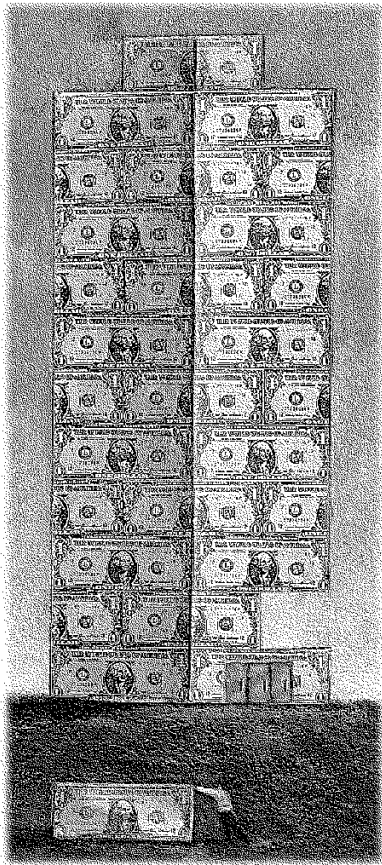
For the 2002-2004 biennium, house budget staff identified a number of budget "drivers" by secretariat (that is, the mandatory or statutory commitments that comprise a significant portion of the state's budget). They are:

Education

Standards of Quality. The biggest known ticket item in education for the next biennium is the cost of updating the calculation of what it costs to meet the Standards of Quality. This recalculation is based on increased enrollment, more current expenditure data, inflation factors and other factors. The cost just to meet the SOQ with no new initiatives is estimated at \$413 million for the biennium — \$194.4 million in FY03 and \$218.9 million in FY04. The Department of Education is asking for an additional \$21.6 million for the assessment of the Standards of Learning for the biennium — \$6.9 million in FY03 and \$14.7 million in FY04. This amount includes the cost of maintaining the

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House budget
continued...

current testing program without any changes, the cost of continuing Internet-based testing, costs of revising the tests for history and some other initiatives.

The big item missing from these figures is the cost of a salary increase for teachers and other school personnel. Each 1 percent salary increase for teachers, effective in December, costs the state about \$37.8 million. A 1 percent salary increase effective July 1 costs \$47.5 million.

Another big unknown on the horizon is a JLARC report examining the cost of funding education. The report and its accompanying recommendations was scheduled to be released Nov. 20 as this issue of *Update* was in production.

Another unknown has to do with contribution rates for retirement. The staff report raises the issue of the General Assembly setting retirement rates for teachers lower than those already certified by the Board of Trustees. (On Oct. 18 the board certified a rate of 4.24 percent for the next year. An actuarial study showed the rate could be dropped to 3.60 percent; the board retained the current rate of 4.24 percent because of uncertainty about the economy and a desire to stabilize contribution rates.) In the short run, this saves the state (and localities) money; however, dropping the rate increases the likelihood and magnitude of a contribution increase in upcoming years.

Human services

CSA. Continued growth in program costs will require \$140.4 million for the biennium, primarily due to increased residential treatment costs

Medicaid. Growth of 7 percent in each year predicted, as a result of expanded coverage and increasing costs for pharmaceuticals and long-term care

Foster care. More complex cases and increasing adoptions have produced double-digit growth in program expenditures over the past five years, resulting in the need for \$38.1 million in funding for the biennium

Public safety

HB 599. As stated above, a cut of \$12.5 million was suggested for the current biennium, which would take the current funding level of \$183.4 million to \$170 million (or lower, House budget staff suggested). This would affect the funding base for the next biennium.

Local jail per diems. The effect of statutory changes resulting from bail reform and Virginia Exile, along with the back-up of state-responsible offenders in local jails will increase the amount needed for local jail per-diems to \$48.4 million for the biennium. An additional \$19.5 million is needed to fill the gap in the 2002 caboose budget.

Local juvenile detention. New beds opening in local facilities, accompanied by increased operating costs will require an additional \$48.3 million for the biennium. Another \$11.2 million is needed to meet the needs in the 2002 caboose budget.

Natural resources

Water Quality Improvement Fund. No funding is required by statute because FY 01 revenue did not exceed the forecast and agency balances were not sufficient to cover obligations

Transportation

Virginia Transportation Act of 2000. A total of \$216.1 million from the insurance license tax and undesignated general fund would be required to maintain this program in the coming biennium.

General government

Compensation Board. Population growth in some localities will mean that constitutional officers in eight jurisdictions will move into higher salary ranges or classifications, at a cost \$160,462 in each year of the biennium.

Population changes will prompt additional deputy positions and funding to remain at the statutory 1:1,500 ratio in sheriff's offices with law enforcement responsibility. This would add an additional \$7.3 million for the biennium.

Salary increases. The General Assembly will want to give salary increases, if not in the current year, in the budget for 2002-04. The price tag will be hefty. Each 1 percent salary increase effective in December for the four categories of employees — state employees, teachers, higher education and state-supported local employees — costs \$100 million a year. Again, a 1 percent increase for teachers, effective in December, costs \$37.8 million a year; the same increase for state-supported local employees costs \$10.8 million.

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House budget continued...

In addition to these needs, some additional budget issues have arisen that may require a response in the 2002-2004 biennial budget. One new issue, deemed a high priority by House Appropriations staff, is additional funding for the public health system for natural disaster/terrorism response. The Virginia Department of Health is requesting \$47.6 million for the biennium to add new staffing and equipment in the central office and seven new positions in each of the 35 health districts. This includes a new state-level office responsible for statewide response plan

preparation and testing, including intergovernmental resource coordination. Positions in the health districts would cover environmental health hazards and investigations, epidemiology, community preparedness and public information/education. The actual amount, if any, to be spent on such a request will depend on a number of factors, including possible federal funding for such purposes.

The next time the House Appropriations Committee meets will be on Dec. 19 to hear Gilmore's presentation of the proposed 2002-2004 budget. ❖

Business groups support state sharing income tax with localities

The Virginia Chamber of Commerce and the Home Builders Association of Virginia both support returning a share of the state income tax to localities, judging from presentations made recently to the Joint Subcommittee Studying the State Tax Code.

That was part of the message each organization delivered during the Nov. 13 meeting of the legislative tax commission. Both organizations, however, said that local governments should be prohibited from reducing local taxes in response to any state revenue sharing initiative.

The legislative tax subcommittee, co-chaired by Sen. Emmett W. Hanger Jr., and Del. Robert F. McDonnell, is scheduled to issue its recommendations in time for the 2003 General Assembly.

Randolph Lail, Tax Policy Subcommittee chairman for the Virginia chamber, told the commission that tax restructuring was among his organization's top priorities, and that it must be done comprehensively, not piece-meal. He also said that the state should assume more responsibility for human service programs, and provide a greater share of the funding for public education. Lail suggested that the state should consider getting rid of the personal property tax altogether, and also noted that his association has concerns with how business personal property is assessed. Regarding the business, professional and occupational license tax (BPOL), Lail acknowledged that this tax is less unpopular since the major reforms of the mid 1990s, but it would still be desirable if localities could be weaned from it.

Speaking on behalf of the homebuilders in Virginia, Executive Vice President Michael L. Toalson also urged

comprehensive tax reform. Not surprisingly, he said that his industry does not support taxes on housing to support new public infrastructure. He said the homebuilders supported equal taxing authority for counties, and only supported "self-help" revenue initiatives by local governments only as a last resort.

The commission received staff briefings on a variety of questions that had been raised at previous meetings. House Appropriations Staff Director Terry Atkinson provided information on the growth in state aid to localities from 1990 to 2000. This has been an item of particular interest to members of the subcommittee, who want to know how much additional money the state has provided to localities compared to any additional requirements the state has imposed. Sen. Mary Margaret Whipple cautioned the subcommittee about drawing conclusions without also having information on changes in demographics and other factors which influence demands for services.

Staff also presented the subcommittee with information from the mandate catalog prepared annually by the Commission on Local Government. Del. McDonnell asked if it were possible to develop cost information for the mandates. VML Deputy Director Betty Long told McDonnell that developing cost information was complicated, but the league would work with the commission to provide as much information as possible.

The chairs indicated they will lay out a detailed work plan, which may include the creation of subcommittees, at their next meeting, scheduled for Dec. 17 at 10 a.m. in Richmond. ❖

FROM THE CAPITOL

Governor's tax
commission
completing
recommendations

The Governor's Commission on Government Finance Reform for the 21st Century was scheduled to complete its recommendations at a meeting Nov. 19 in Williamsburg (as this issue of *Update* went to press.).

In response to issues discussed at the Oct. 23 meeting of the commission (see Nov. 9 *Update*), VML Deputy Director Betty Long sent the commissioners a letter urging them to consider certain points as they developed their recommendations. Excerpts from the letter are provided below:

"...The presentation that VML and VACo made to the commission in September pointed out the extent to which the state is already relying on local governments to fund key programs such as education. You may recall that local governments are paying 57 percent of the cost of public schools, compared to the 31 percent of the cost paid by the state. If the state were to assume a greater responsibility for funding education, then tax restructuring with a revenue-neutral outcome might be acceptable to local governments. As it is, tax restructuring must result in revenue enhancement for localities to be able to continue to support education at this level and to provide all of the other services necessary to make Virginia an attractive place to live and do business.

"... some commission members have suggested that if the commission's recommendations result in more revenue to local governments, then there should also be some corresponding limits on current local taxing authority. Local governments would object to such a quid pro quo for two reasons. First, the resources available to local governments are already inadequate compared to the services that the state expects them to deliver. Second, while such an approach may seem reasonable to some, it can produce widely varying impacts across localities ... Local officials are in the best position to judge whether local tax relief is appropriate in their jurisdiction, and how it can best be achieved. This is one of the things they are elected to do, and if their citizens don't agree with their decisions, they will not be returned to office.

Regarding specific proposals that the commission is considering, there seems to be strong interest in the proposal to eliminate the personal property tax on the full value of all personal vehicles and replace it with a share of the state income tax. While we agree that it is important to diversify local revenues by returning a share of the income tax to localities, we have concerns about this specific proposal. They can be summarized as follows:

- The current personal property tax relief program simply replaces revenue that local governments would otherwise be collecting themselves. Therefore a plan to replace personal property tax reimbursements with income tax revenues will not improve the financial condition of most local governments.

- Some local governments could actually be worse off under a replacement plan, because personal property tax revenues grow faster than personal income in their jurisdictions. Such a result would not keep faith with the governor's original promise of dollar-for-dollar reimbursement.

We do, however, appreciate Chairman Bliley's suggestion that: 1) the amount of state income tax returned to local governments be

gradually increased to as much as 20 percent and 2) that the amount which exceeds the funds needed to replace personal property tax revenues be distributed based on VML and VACo's 50-40-10 formula.

Another issue that appeared to receive strong support is the formation of a commission to evaluate telecommunications taxes. We would urge you to take this approach as opposed to enacting any of the specific remedies that are under consideration. The subject of telecommunications taxes is complex, and any changes to existing taxing authority will have to address possibly competing goals of simplicity, uniformity, tax equity and revenue neutrality. If the commission decides to recommend creation of a telecommunications tax commission, we urge you to recognize the need to involve local government representatives in such an effort." ❖



FROM THE CAPITOL

JLARC, VDOT issue far-reaching transportation recommendations

Virginia should fundamentally alter the method it uses to allocate road construction money, according to a report released recently by the Joint Legislative Audit and Review Commission.

The JLARC report, entitled *Equity and Efficiency of Highway Construction and Transit Funding*, offers far-reaching recommendations on how the state should distribute highway construction money to regions and to localities. JLARC is the legislature's watchdog agency.

The JLARC proposal will establish "winners and losers" among local governments. VML wants the 2002 General Assembly to direct the report to a joint legislative study committee for additional review and examination. A legislative study would permit VML, its members, the legislature and the new administration the opportunity to better understand the effect of the proposals.

The report offers additional recommendations, including:

- replacing VDOT's five-year needs assessment with an updated model;
- establishing a separate bridge construction fund;
- reconfiguring and reducing the VDOT's administrative districts (from nine to seven) and the size of the Commonwealth Transportation Board (from 14 to 12 members). The legislature, as opposed to the governor, would appoint all five at-large seats; and
- strengthening the influence and importance of public transportation. The report also revisits the problems resulting from a lack of available funds to pay for identified priority projects.

In addition to releasing its report regarding the equity and efficiency of transportation funding on Nov. 13,

JLARC released a separate report entitled *Adequacy and Management of VDOT's Highway Maintenance Program*. The staff found that repairing pavements identified as "poor" and "very poor" would cost more than \$105 million; and repairing and rehabilitating bridges identified as needing maintenance would cost more than \$1.5 billion. In summary, the commission found that the highway maintenance program is "inadequately funded to provide reasonable and necessary maintenance."

In a separate action, the Commonwealth

have been rising by about 4 percent annually. These two issues, along with additional problems that include a lack of money to support the Commonwealth Transportation Act of 2000, mean that localities will experience a decrease in urban and secondary road funding for a second consecutive year.

The CTB will hold two public hearings Dec. 6 on the preliminary transportation development plan. They are:

- 9 a.m., Clarion Hotel, 3315 Ordway Drive Roanoke; and
- 2 p.m., VDOT Auditorium, 1221 E. Broad St., Richmond.

The *Equity and Efficiency of Highway Construction and Transit Funding* study proposes the elimination of VDOT's administrative road classification system (present system: interstate (funded off-the-top of the Transportation Trust Fund (TTF), primary (40 percent of the TTF), urban (30 percent of the TTF) and secondary roads (30 percent of the TTF)).

The former would be replaced with a functional classification system (proposed system: statewide (39.3 percent of the TTF), regional (33.3 percent of the TTF) and local roads (27.3 percent of the TTF)).

The Commonwealth Transportation Board would allocate statewide and regional project dollars. Regional funding would be based on the total number of registered vehicles in each of the respective seven VDOT districts. Although the transportation board would allocate regional funds, they would do so in coordination with local governments and regional bodies (Metropolitan Planning Organizations). Local funds would be distributed to counties, cities and qualifying towns. Eighty-six percent of local funds would be allocated based on each locality's proportion of centerline miles (distinct from lane miles), and 14 percent of local system funds would be allocated based



Transportation Board released its preliminary Virginia Transportation Development Plan, or proposed six-year plan, on Nov. 14. The new plan is VDOT's construction plan and budget for fiscal year 2002 (that began on July 1, 2001). Although the details of the plan are still emerging, several problems are evident. First and foremost, VDOT officials based the plan on outdated revenue projections from July 1, 2001. The subsequent recession and events of Sept. 11 have dramatically affected available revenues. It is unclear whether the CTB will revise its revenue forecast prior to adopting the plan on Dec. 18. It also appears that VDOT has once again "flat-lined" maintenance costs, although on average such costs

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FROM THE CAPITOL

Transportation recommendations continued...

on each locality's proportion of total registered vehicles.

It is important to note that some existing primary roads would be classified as statewide roads (for example, National Highway System roads), while some urban and secondary roads may be classified as regional roads. JLARC's needs assessment (the study model used to determine the proposed allocation

formula) found that 80 percent of statewide and regional system needs are in urban functional classes while 80 percent of local system needs are in rural functional classes. This analysis explains why the proposed regional formula appears to benefit larger urban areas and why the proposed local formula appears to benefit rural.

Although JLARC's final reports will not be released until the week after Thanksgiving, the summary of findings can be found

on the following website: <http://jlarc.state.va.us/>. The summaries include each of the recommendations. The equity and efficiency report includes a map of the proposed VDOT districts.

The preliminary transportation development plan is posted on VDOT's website: <http://virginiadot.org/>.

For additional information, call VML Legislative Analyst Mike Edwards at: 804/649-8471. ❖

Rural Prosperity Commission recommends local authority to provide telecommunications services

The General Assembly should allow local governments to provide telecommunications services to citizens when the telecommunications industry does not provide them, according to the Rural Prosperity Commission.

RPC staff recommended recently that: "In areas not sufficiently served by the private sector (at minimum established data rates), the General Assembly should permit localities to build and operate their own telecommunications data services, applying S.C.C certification rules as approved by the Auditor of Public Accounts."

The commission voted to recommend two alternative solutions in order to help localities to bring high-speed telecommunications services to rural areas of the state. Starting from the staff recommendation, the commission voted to allow localities to enter into public-private partnerships with certificated local exchange carriers to install fiber, light it and provide services. The second alternative more closely tracks the staff recommendation, by allowing localities to build telecommunications systems and to provide services, with the proviso that a locality would be required to sell the assets to a private telecommunications company for fair market value, "when appropriate." The time to sell would be appropriate when a private company desires to enter into a locality's market in order to provide telecommunications services. Del. Joe May made the motion containing the two alternatives. He expressed his preference for the public-private partnership alternative.

All of the legislator commission members present voted for the proposal. They were the chairman, Del. Steve Landes, Dels. Joe May and Jackie Stump,

and Del.-elect Robert Hurt, who has been a commission member, and Sen. Frank Ruff. Del. Terry Kilgore had attended the meeting earlier in the day and had supported the authority of localities to provide telecommunications services. Sen. Emmett Hanger was unable to stay for the vote, but had earlier expressed his opposition to local involvement in the area, and moved to delete the staff recommendation from the commission's plans. That motion was defeated earlier in the meeting.

The commission debated this recommendation energetically before voting to approve it. There is a strong feeling among the legislative members that locality-operated telecommunications systems should not compete with private companies. While the members recognized the need to take definite steps to bring the services to rural areas, they do not want to see localities becoming competitors with private companies. This issue is most immediate in relation to the cable TV industry. The cable industry does provide typical TV services in many areas of the state. When a locality enters the telecommunications market, it will often provide cable TV services as a part of its system. The reason localities are interested, however, is not to compete with cable. Further, even when the cable industry provides cable modems, that is too slow to be a widely useful economic development tool. Therefore, the competition with cable TV is not so much an issue as competition with a broadband provider would be.

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FROM THE CAPITOL

Telecommunications continued ...

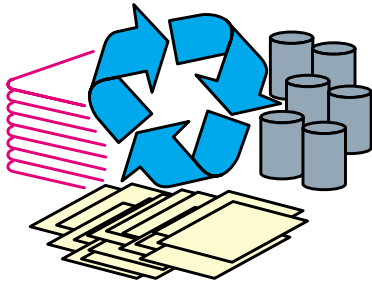
The commission also debated what selling the system at fair market value would entail. Linwood Duncan, the commission representative from Danville, pointed out that when a locality develops a system, it will likely offer services at below-market rates, both for residential consumers and business consumers. Duncan cautioned that, upon a sale to a private company, the locality should have the authority to impose rate limitations for some period of time.

Another recommendation of staff was to create a not-for-profit foundation "to

stimulate development of high bandwidth networks in rural Virginia." The commission was concerned about funding for another entity, and, as an alternative, recommended that the Center for Innovative Technology take on the role of the proposed foundation. The CIT representative agreed to the task, pointing out, however, that without adequate funding and without fairly specific direction, the project would be difficult to carry out.

The commission also recommended that its authority be extended for the next biennium. ❖

Tipping fee legislation pursued by recycling council



Legislation to place a fee of \$5 per-ton or \$2 per-cubic-yard of municipal solid waste disposed of at every solid waste management facility continues to be pursued by the Virginia Recycling Markets Development Council. The council plans to inform the Commission on the Future of Virginia's Environment of its position at the commission's meeting on Nov. 29 in Richmond, but evidently will pursue legislation whether or not the concept is endorsed by the commission.

Revenues generated by the tipping fee will be placed in a Virginia Solid Waste Recycling Fund. The revenues could be as high as \$60 million, although council members felt this figure was "a little high." Eighty-five percent of the revenues would be distributed semi-annually to designated solid waste management planning units on a per capita basis. The money presumably then would be distributed to localities, although this is not spelled out in the proposed legislation. The money would have to be spent for the purpose of supporting solid waste management planning, including composting and recycling programs. Waste industry representatives on the council have

asked that a non-competitive clause be added to ensure that the money isn't used to buy equipment that would then allow the public sector to compete with private sector recycling businesses.

The remaining 15 percent of the revenue in the fund would be designated for the Department of Environmental Quality, which could use the money for 1) solid waste management planning and recycling programs conducted at the state level, 2) the costs associated with administering the fund and 3) grants to pay for innovative recycling programs.

The council also supports legislation to create a recycling markets development specialist within state government who would have the duties of coordinating and promoting recycling development activities.

VML's legislative program on tipping fees is: VML advises the state against imposing a MSW tipping fee or surcharge without first developing reasonable and equitable allocation formulas and without first examining and understanding the impact such a fee will have on local governments. ❖

Open space study committee proposes rules on clustering

The Open Space Preservation-Property Rights work group has recommended a change in state law to mandate a consistent type of clustering provision for localities that use clustering of residences in land use. The work group met Nov. 15 and accepted, in principle, the proposal agreed to by the high growth coalition and the homebuilders association.

Under the proposal, if a locality is going to use clustering, it must set out the requirements for clustering in its compre-

hensive plan and zoning ordinance. The clustering process will be by-right, without a special exception, special use permit or conditional use permit. The approval process will be administrative, similar to a subdivision plat. Localities will have the right to require a CUP or SUP for a cluster project that increases density beyond the increase, if any, allowed by the zoning ordinance. The proposal, however, does not require localities to allow density increases.

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FROM THE CAPITOL

Clustering
continued ...

If a locality wants to continue to use clustering as a land-use tool, the clustering provisions must meet the above requirements. All clustering provisions not in compliance with the agreed proposal will have to be removed from a locality's zoning ordinance as of July 1, 2004. Localities will remain free to reject clustering as a land use tool.

From the local government perspective, the deal avoids the risk of having to live with a one-size-fits-all clustering provision. That was proposed each of the last two sessions of the General Assembly. From the development community's perspective, the deal allows

cluster projects to move forward in a relatively quick manner, and removes the uncertainty inherent in being subjected to the SUP or CUP process.

The work group plans to meet again by the end of the first week of December to review a draft bill. Following the work group's deliberations, the Commission on Growth and Economic Development will have to consider the proposal. The high growth coalition's and builders' lawyers are working on a draft now. As soon as a draft is available, VML will send it out for review by its members. Questions, comments? Contact VML's Mark Flynn (mflynn@vml.org). ❖

Joint health
commission proposes
local relief
on auxiliary grant
funding

Local governments would be relieved of the 20 percent match paid on auxiliary grants for eligible persons living in assisted living facilities under a legislative proposal endorsed by the Joint Commission on Health Care on Nov. 13.

The long-term care subcommittee of the Joint Commission recommended relieving local governments of this funding requirement because of its disproportional impact on some of Virginia's least affluent cities and counties. Those most affected by this program include the cities of Richmond, Petersburg, Danville, Bristol, Lynchburg, Franklin and Galax. The cost for the state to assume 100 percent of the auxiliary grant program costs would be \$5.7 million in fiscal year 2003.

Last year VML presented to this subcommittee the case for removing the local government match. The proposal, endorsed by the Health Commission, became legislation in the 2001 General Assembly session. It was tabled in the House Appropriations Committee because of the fiscal impact on the state. This year,

the subcommittee's visits to assisted care facilities and resulting discussions led them once again to recommend this proposal. They are proposing as well an increase in the auxiliary grant rate, in order to provide better-funded services to eligible residents of assisted living facilities.

Other proposals endorsed by the Health Care Commission include a boost in funding of \$3.1 million for the adult protective services program, as well as a multi-agency study of Medicaid waivers for community-based long-term care services.

The Health Care Commission will post its legislative and budget proposals on its website (<http://legis.state.va.us/jhc/jchchome.htm>) between Dec. 8-12. Comments on these proposals will be accepted until before Christmas. The Commission will re-convene Jan. 3 to review any comments and to give formal approval to its legislative and budget items. Brief letters or e-mails of support for the auxiliary grant relief proposal would be greatly appreciated. Please call Janet Areson at VML, 804/649-8471, if you have any questions. ❖

VRS board to request
OAG opinion
on council purchase
of service

The executive director of the Virginia Retirement System will ask the attorney general for an opinion that will affirm service rendered by former members of city councils, town councils and boards of supervisors is ineligible for purchase as prior service in VRS.

With the change last year on the purchase of prior service for the calculation of retirement benefits, VRS is receiving applications and inquiries from these former local elected officials requesting the purchase of prior service

rendered as elected officials for localities participating in VRS.

VRS has a long-standing policy that members of governing bodies of political subdivisions are not eligible to participate in VRS because they are neither local officials (which are constitutional officers) or employees. VRS cites two opinions of the attorney general supporting this policy.

The VRS Board of Trustees authorized Executive Director Bill Leighty to seek the opinion at its meeting Nov. 15 in Richmond. ❖

REGULATIONS

Intended Regulatory Action

Standards for Juvenile Residential Facilities. The State Board of Juvenile Justice has proposed action to provide standards for post-dispositional detention in accordance with the 2000 Appropriations Act, item 476 A 3 and to reinstate certain historical standards that conform closely to nationally accepted standards. The agency intends to hold a public hearing on the proposed regulation after publication. Public comments may be submitted until Dec. 7. For information, contact Donald Carignan, Regulatory Coordinator, at 804/371-0743.

Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System. The State Board of Juvenile Justice has proposed action to establish standards to the form and content of information submitted to the Virginia Juvenile Justice Information System, protect the integrity and the confidentiality of the information, and ensure the security and dissemination of information in accordance with law. The agency intends to hold a public hearing on the proposed regulation after publication. Public comments may be submitted until Dec. 7. Contact Donald Carignan, Regulatory Coordinator, at 804/371-0743 for additional information.

Proposed Regulations

Water Quality Standards. The State Water Control Board has proposed regulations update the statewide ammonia and bacteria criteria to match updates published by the Environmental Protection Agency (EPA). The bacteria criteria proposed are designed

to protect all state waters for primary contact recreation (swimming). The amendments also incorporate a site specific chronic ammonia criterion for the northern Virginia tidal embayments. All of these amendments will be used in calculating Virginia Pollutant Discharge Elimination System permit limits where appropriate and for water quality assessments per the federal Clean Water Act §§305 (b) and 303 (d) reports. Public hearings will be held. Contact Elleanore Daub, Department of Environmental Quality, at 804/698-4111 for more information.

Water Quality Management Plans. The Department of Environmental Quality has proposed primary action to adopt a Water Quality Management Planning Public Participation Guidelines (WQMPPPG) regulation. This regulation sets forth the public participation procedures that the board shall follow in connection with development of Total Maximum Daily Loads (TMDLs), certain wasteload allocation studies, § 303 (d) Lists of impaired waters, and the Water Quality Management Plans (WQMPs). This regulation will provide the public and stakeholders with an adequate opportunity to participate in the development and implementation of these water quality management planning programs. The proposed secondary action is the repeal of the existing WQMPs as state regulations. These plans are basinwide or areawide waste treatment or pollution control management plans developed in accordance with §§ 208 and 303 (e) of the Clean Water Act (CWA), as implemented by 40 CFR Part 130. These plans serve as repositories for TMDLs, water quality based effluent limits, and the recommended pollution control measures needed to attain or maintain water quality standards. A public hearing will be held. For additional information, contact

Charles Martin, Department of Environmental Quality, at 804/698-4462.

Final Regulations

Closure Plans and Demonstration of Financial Capacity. The State Water Control Board has proposed regulations to replace an existing emergency regulation that requires closure plans and demonstration of financial capability for privately owned sewerage systems and sewerage treatment works that treat domestic waste generated by privately owned residences. Six alternatives were considered. Alternative two was chosen, which limits the regulation to the category of facilities identified in § 62.1-44.18:3 of the Code of Virginia. The permanent regulation is essentially identical to the existing emergency regulation with the exception of two substantive changes from the emergency regulation: (i) the number of years of contract operation required under 9 VAC 25-650-60 has been decreased from five years to two years and (ii) a waiver provision (9 VAC 25-650-150) has been added pursuant to a legislative amendment to § 62.1-44.18:3 of the code. Two substantive changes were made to the regulation based on comments received during the public comment period. A Certificate of Deposit was added as an acceptable financial assurance mechanism, and the requirement for a stand-by trust was removed. Additionally, the allowable time to file the financial assurance mechanism with the board after board approval of the closure plan and cost estimate was increased from 10 days to 30 days, and the time requirement for notification to the board of an ownership transfer was decreased from 120 days to 30 days. Contact Jon van Soestbergen, Department of Environmental Quality, at 804/698-4117 for additional information. ❖

POSITIONS

Director of Information Technology, Manassas

SALARY: \$70,720-\$99,028. Plans, directs, organizes and supervises activities of the Information Technology Department, including operation, maintenance and enhancement of the city computer network, communications network and

related peripherals to ensure the integrity of the system. Apply: Department of Human Resources, 9027 Center St., Room 302, Manassas, VA 20110. Fax: 703/257-5827; e-mail: HR@ci.manassas.va.us. Open until filled. EOE.

Budget Manager, Manassas

SALARY: \$48,900-\$61,110. Performs complex professional work in preparing and analyzing

financial and budgetary records, reports and statements. Assists finance director and city manager in planning annual operating bldgt, 5-yr. capital improvement plan and 5-yr. forecast. Develops and maintains these 3 documents. Apply: Department of Human Resources, 9027 Center St., Room 302, Manassas, VA 20110. Fax: 703/257-5827.

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POSITIONS

Longer version of job ads posted at www.vml.org

BECAUSE OF A STEADY increase in the number of requests it receives to publish job advertisements, VML has been forced to reduce the length of the descriptions of positions it advertises in *Update*. A full version of all of the job listings published here appears on VML's web site at www.vml.org. If you are interested in finding out more about a position, we encourage you to visit the VML site and click on "Marketplace" to read the complete description. ❖

E-mail to: hr@ci.manassas.va.us. Deadline: Dec. 4. EOE.

Management Analyst II, Albemarle County

SALARY: \$33,961-\$40,753 DOE/DOQ. Assist chief of housing in developing policies and programs through research, analysis, report writing and overseeing quality control of Housing Choice Voucher Program. Demonstrate knowledge of state and federal housing programs and community development, and ability to research, analyze and develop conclusions. Complete position description is available upon request or at web site www.albemarle.org/humanres. Apply: County of Albemarle Department of Human Resources, 401 McIntire Road, Charlottesville, VA 22902; 434/296-5827. Open until filled. EOE.

Crime Analyst, Hampton

SALARY: \$29,257-\$43,886 (+) benefits. Examine and analyze crime reports, addenda, field interviews and arrest data daily to extract data from police reports, crime reports, traffic records, files and other sources to ensure accurate and up-to-date statistical and narrative analyses. Submit City of Hampton application and/or resume to Department of Human Resources, 22 Lincoln St., 4th fl., City Hall, Hampton, VA 23669 or E-mail hrdept@hampton.gov. For more info. or to request accommodation call 757/727-6345, Fax 757/727-6449. See www.hampton.gov. Deadline: Nov. 30. EOE.

Management Analyst, Hampton

SALARY: \$46,445 (+) benefits. Plans, develops, analyzes and prepares studies and research projects for the Department of Human Resources. Provides dept. support

for long-term planning, problem-solving, and management actions. Provides advanced analytical, communication and coordination services. Submit City of Hampton application and/or resume to Department of Human Resources, 22 Lincoln St., 4th fl., City Hall, Hampton, VA 23669 or E-mail hrdept@hampton.gov. For more info. or to request accommodation call 757/727-6345, Fax 757/727-6449. See www.hampton.gov. Open until filled. EOE.

Museum Administrator, Hampton

SALARY: Negotiable (+) benefits. Manages and directs the work of the overall day-to-day operations of the museum, including the human and fiscal resources, administrative functions, and building operations to effectively execute and define the Hampton History Museum's mission. Provides ongoing leadership and develops long range strategic planning for the growth and stability of the museum to ensure that marketing, public relations, outreach and volunteer programs are effectively accomplished. Submit City of Hampton application and/or resume to Department of Human Resources, 22 Lincoln St., 4th fl., City Hall, Hampton, VA 23669 or E-mail hrdept@hampton.gov. For more info. or to request accommodation call 757/727-6345, Fax 757/727-6449. See www.hampton.gov. Deadline: Dec. 28. EOE.

Parks and Recreation Director, Vienna

SALARY: \$64,000-\$74,000 DOQ. Oversees operation of all park maintenance and recreational programming functions. Reqs. experience in bldg. preparation and administration, park and recreational facilities development and maintenance, personnel as well as a proven track record in establishing innovative recreational programs for all ages. Reqs. degree in recreation administration or related field, preferably master's degree with 5 yrs. progressively responsible exper. Complete job description can be viewed at <http://www.ci.vienna.va.us/jobs/job101-30.htm>. Resumes to: Town of Vienna, Personnel, 127 Center St., South, Vienna, VA 22180; fax to 703/255-5722 or e-mail to jobs@ci.vienna.va.us. Deadline: Jan. 1. EOE.

Director of Financial and Management Services, York County

SALARY: Negotiable (+) benefits. Responsible to county administrator for overall direction of one of 5 major depts. Work involves all aspects of financial mngmnt., computer support services, gov't. procurement, personnel mngmnt. and administration, and real estate assessment. Evaluate operational systems for

which management oversight exists and provide guidance for development and implementation of changes to those systems. York County application req. and may be obtained from the Human Resources Office, 120 Alexander Hamilton Blvd., Second Floor, Yorktown, VA; from the county's web site www.yorkcounty.gov; or by calling 757/890-3690. Hearing impaired only call TDD 890-3300. Open until filled. EOE

Zoning Technician, Dumfries

SALARY: \$36,648-\$38,480 DOQ (+) benefits. Reqs. comprehensive knowledge of zoning procedures. Submit cover letter, resume & application to: Town of Dumfries, Attn: Mr. Wilkins, Public Works Dept., P.O. Box 56, Dumfries, VA 22026. 703/221-3400, ext. 117. Open until filled. EOE.

Police Officers, Gordonsville

SALARY: \$20,000-\$25,000. Performs law enforcement duties in a 1,500 population community located in Orange County, appx. 21 miles from Charlottesville. HS diploma req.; must possess valid Va. operator's license. For application and details, contact Chief Terry L. Duty, P.O. Box 276, Gordonsville, Va. 22942 or call 540/832-2234.

Language Access Coordinator (Management Analyst IV) Fairfax County

SALARY: \$55,971-\$74,628. Organization-wide responsibility for language access initiatives throughout the county gov't. Conducts ongoing assessment of language needs to serve customers, assist county agencies with development of language access plans, which includes interpretive and translation services. Implements and monitors language initiatives and staffs an advisory group that will advise the county executive on language access issues. Monitors contracts for interpretive and translation services. Prefer bilingual ability. Fairfax County resident. Job #01-2284. For application instructions, see www.co.fairfax.va.us. Open until filled. EOE.

Management Intern, Leesburg

SALARY: \$28,500-\$35,000 DOQ (+) benefits. (Pop. 30,000) FT in town manager's office for 12 mos. beginning spring 2002. Prefer graduate of accredited MPA program or closely related field with strong research, analytical, computer and writing skills. Under general supervision of deputy town manager, rotate through depts., including finance/budget, human resources, planning and engineering to gain broad view

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POSITIONS

of internal functions. Send completed Town of Leesburg application, resume and 2-page letter explaining career goals and anticipated benefits of internship. For application, contact Human Resources, P.O. Box 88, Leesburg, VA 20178 or download from www.leesburgva.org. Tel: 703/737-7177; Fax: 703/737-7190. Open until filled. EOE.

Senior Engineer (capital projects), Leesburg

SALARY: \$47,549-\$76,078 (+) benefits DOQ. Professional engineering position involving the review, project management, scheduling and construction of public works projects. Reqs: Graduation from accredited 4-yr. college or university with major coursework in civil engineering or a related field, 6-8 years exper. in design and construction of roadways, neighborhood improvement type projects and public facilities. Apply to and request application from the Town of Leesburg, Human Resources Department, 25 W. Market St., Leesburg, VA 20176. Tel: 703/737-7177. See www@leesburgva.org for application. Open until filled. EOE.

Assistant to the Building Official, Portsmouth

SALARY: \$44,019. Administer compliance with the Virginia Uniform Statewide Building Code, Virginia Industrialized Building and Manufactured Home Safety Regulations, Virginia Amusement Device Regulations and Flood Proofing and Elevations (FEMA) regs. Reqs. strong skills in communication, management, planning and administration. Submit completed city application to the Department of Human Resource Management, 801 Crawford St., Portsmouth, 23704. www.ci.portsmouth.va.us. Open until filled. EOE.

Combination Code Inspector, Portsmouth

SALARY: \$30,325. Ensures that the state's mechanical, electrical and plumbing codes and regulations, and the Virginia Uniform Statewide Building Code are enforced. Conduct on-site inspections of properties, amusement devices, elevators, escalators, tanks, etc. Reports to building official. Submit completed city application to: Department of Human Resource Management, 801 Crawford St., Portsmouth, VA 23704. www.ci.portsmouth.va.us. Open until filled. EOE.

Deputy Director of Planning/ Core Services, Region 2000 Regional Commission

SALARY: \$47,503-\$52,926 DOQ (+) benefits. Provide innovative leadership to commission's planning/core services division. Under indirect supervision of executive director. Reqs. organized, self-starter; balanced working knowledge of community planning and development, transportation planning and intergovernmental relations. Min. qualifications include bachelor's degree in community planning and development, engineering related field or transportation planning. Contact commission for application at: 434/845/3491; P.O. Box 817, Lynchburg, VA 24505; or via e-mail to: carolyn.wagner@regcomm.org. Open until filled. EOE.

Zoning Administrator, King William County

SALARY: DOQ. (Pop. 13,100) Interpret and ensure compliance with county land use and environmental codes, including zoning ordinances, subdivision ordinances, wetlands ordinances, erosion and sediment control ordinances, stormwater management, and GIS. Submit completed county employment application, resume and 5 professional references to: County Director of Community Development, King William County, P.O. Box 215, King William, VA 23086. Complete job description and county application obtained by calling 804/769-4969. Open until filled. EOE.

Manager of Comprehensive Planning, Portsmouth

SALARY: \$48,290. Perform complex professional, administrative and managerial work assisting the director in conducting major activities, special projects or programs of the Planning and Inspections Department. Involves comprehensive and land-use planning, plan maintenance and allocating, administering and supervising staff and material resources of the dept. Submit city of Portsmouth application to the Department of Human Resource Management, 801 Crawford St., Portsmouth, VA 23704. www.ci.portsmouth.va.us. Open until filled. EOE.

Assistant City Manager (Administration and Finance), Portsmouth

SALARY: \$69,489-\$118,132 negotiable DOE. Works with depts. and programs, such as finance, purchasing, risk management, legislative services and info. technology, to provide oversight in development and execution of initiatives and policies. A primary advisor to the city manager on organizational development,

financial and administrative matters, resolution of issues, and in development of strategic goals, operating budget and capital improvement plan. Submit a completed city of Portsmouth application to the Department of Human Resource Management, 801 Crawford St., Portsmouth, VA 23704. www.ci.portsmouth.va.us. Open until filled. EOE.

Assistant City Manager (Community Services), Portsmouth

SALARY: \$69,489-\$118,132 negotiable DOE. Works with depts. and programs, such as social services, mental health, housing, museums, libraries and community relations, to provide oversight in development and execution of initiatives and policies of the city. A primary adviser to the city manager on organizational development, resolution of issues, and in development of strategic goals. Submit a completed city of Portsmouth application to the Department of Human Resource Management, 801 Crawford St., Portsmouth, VA 23704. www.ci.portsmouth.va.us. Open until filled. EOE.

City Manager, Radford

SALARY: \$85,000-\$95,000 DOQ. Current manager retiring after 23 yrs. Reports to 5-member council, including mayor. Directs daily operations of the city, including Police, Fire, Finance, Electric, Water/Wastewater and Street Departments. Possess knowledge of or have exper. in public admin., financial mngmnt., personnel mngmnt. and economic development. Previous exper. in municipal govt. desirable. Must also possess bachelor's degree from accredited college or university. Advanced degree preferred. Current budget: \$37 million; 229 FT employees. Resume and chronological work and salary history to: City of Radford, Attn: Belinda Coffin, 619 Second St., Radford, VA 24141. Deadline: Dec. 10. EOE.

City Manager, Kannapolis, N.C.

SALARY: Competitive (+) benefits. (Pop. 40,000) Two managers since ICMA recognition in 1984. \$27M bdtg. w/200 employees. Seven-member non-partisan city council consists of six members elected at-large for 4-yr. staggered terms and a mayor elected at-large for a 4-yr. term. Reqs. bachelor's degree (MBA/MPA preferred); strong professional, administrative leadership, substantial record of success in industrial / economic development; resourceful, conservative mngmnt. skills;

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POSITIONS

sensitive to employee/community interaction and relationships; team-oriented, progressive, visionary. Significant mngmnt. exper. and history of stable tenure. Resume, work-related references and salary history to: Roger Scott, Senior Vice President, Springsted Incorporated, 1206

Laskin Road, Suite 210, Virginia Beach, VA 23451; 757/422-1711. Deadline: Dec. 1. EOE.

DEADLINES: *The deadline for placing a job advertisement in the next issue of Update is Friday, Nov. 30. Submit ads via e-mail to David Parsons at: dparsons@vml.org. You may also submit via FAX at: 804/343-3758. VML publishes job advertise-*

ments at no cost to its local government members. Non-members are charged a flat rate of \$25 per ad per issue, which includes posting on VML's web site and publication in Virginia Town & City (deadlines permitting). VML reserves the right to edit position descriptions because of space limitations.

CALENDAR

American Association of State Highway and Transportation Officials Annual Meeting, Nov. 30-Dec. 4, Fort Worth
Information: 202-624-5800; www.aashto.org

National League of Cities Congress of Cities and Exposition, Dec. 4-8, Atlanta
Information: 202-626-3105; rossides@nlc.org; www.nlc.org

NPDES Phase II Storm Water Workshop, Dec. 6, Baltimore
APWA-sponsored at Holiday Inn BWI Airport. APWA Trainers: John Kosco,

Tetra Tech, Inc., Seattle; Elizabeth Treadway, AMEC, Inc. Overview and break-out sessions on new Phase II regulations, including permitting criteria and deadlines. More information: <http://www.apwa.net/Education/Workshops>.

FOIA Compliance Workshop, Dec. 6, Richmond

Can your board legally hold an out-of-town meeting? Are electronic documents considered public records? Where can you find the answers? Attend this seminar to learn your responsibilities as they relate to the Freedom of Information Act and the Freedom of Information Advisory Council from 9 a.m.-noon at the Science Museum of Virginia Discovery Room. Planned and coordinated by Virginia Government Communicators.

Free to VGC members; Non-members \$10; Contact Laurie McKay-Smith, 804/786-0282 or Evelyn A. "Penny" Jez, at 804/786-1308 or ejez@vdacs.state.va.us

VML/VACo 2002 Legislative Day, Jan. 31, Richmond

Annual briefing for members on status of legislation in the 2002 General Assembly. Contact: 804/649-8471.

The deadline for placing a calendar item in the next issue of Update is Friday, Nov. 30. Preferred method of submitting items is via e-mail to David Parsons at: dparsons@vml.org. You may also submit via FAX at: 804/343-3758.

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