

2021 General Assembly – Bills that have passed both chambers

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Freedom of Information Act

[SB1271 \(McPike\) Virginia Freedom of Information Act; meetings held through electronic communication means during a state of emergency.](#) Allows a public body, or a joint meeting thereof, to meet by electronic communication means without a quorum of the public body physically assembled at one location when a locality in which the public body is located has declared a local state of emergency, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. The bill also requires public bodies meeting through electronic communication means during a local or state declaration of a state of emergency to (a) make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body, and (b) provide the public with the opportunity to comment at such meetings when public comment is customarily received.

[HB1931 \(Levine\) Virginia Freedom of Information Act; electronic meetings.](#) Authorizes a public body to conduct through electronic communication means a meeting for which, on or before the day of the meeting, a member of the public body holding the meeting notifies the chair that such member is unable to attend the meeting due to a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance. The bill also clarifies that participation in an electronic meeting by a member of a public body due to the inability to attend because of a personal matter is limited each calendar year to two such meetings, which is current law, or 25 percent of the meetings held that calendar year rounded up to the next whole number, whichever is greater.

[HB2004 \(Hurst\) Virginia Freedom of Information Act; law-enforcement criminal incident information; criminal investigative files.](#) Adds criminal investigative files, defined in the bill, relating to a criminal investigation or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act. Under current law, the release of criminal investigative files is discretionary. The bill also provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall be enjoined if a court finds by a preponderance of the evidence that the release of such information would likely affect certain results, outlined in the bill.

[HB2025 \(Gooditis\) Virginia Freedom of Information Act; record exclusion for personal contact information provided to a public body.](#) Provides that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members (such as a newsletter) is excluded from the mandatory disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. Currently, the law provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body not to disclose his personal contact information in order for the information to be exempt from mandatory disclosure.

[SB1343](#) (Vogel) Virginia Freedom of Information Act; proprietary records and trade secrets; carbon sequestration agreements. Excludes from the mandatory disclosure provisions of the Virginia Freedom of Information Act proprietary information, voluntarily provided by a private business under a promise of confidentiality from a public body, used by the public body for a carbon sequestration agreement. The bill requires the private business to specify the records for which protection is sought before submitting them to the public body and to state the reasons why protection is necessary.

Courts

[SB1108](#) (Stanley) General district courts; jurisdictional limits. Increases from \$25,000 to \$50,000 the maximum civil jurisdictional limit of general district courts for civil actions for personal injury and wrongful death. The bill contains an emergency clause.

[HB2099](#) (Coyner) Limitations on enforcement of judgments; judgment liens; settlement agents. Reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued, or action may be taken on such judgment. The bill provides that the limitation of the enforcement of a judgment may be extended up to two times by a recordation of a certificate prior to the expiration period in the clerk's office in which a judgment lien is recorded. The bill provides that such recordation shall extend the limitations period for 10 years per recordation from the date of such recordation. Under current law, such limitation period may be extended on motion of the judgment creditor or his assignee. The bill allows a settlement agent or title insurance company to release a judgment lien, in addition to a deed of trust as provided under current law, provided that the obligation secured by such judgment lien has been satisfied by payment made by the settlement agent and whether or not the settlement agent or title insurance company is named as a trustee under such lien or received authority to release such lien. The bill has a delayed effective date of January 1, 2022.

Public Safety and Jails

Facial recognition, body camera grant funding, and jail mental health assessments were among the bills approved this year. Bills of interest include the following:

[HB2031](#) (Aird) forbids any local law-enforcement agency or campus police department from purchasing or deploying facial recognition technology, as defined in the bill, unless the purchase or deployment is expressly authorized by statute (i.e., the General Assembly approves of it). The bill prohibits a local law-enforcement agency or campus police department at a public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021.

[SB 1119](#) (Reeves) creates a special non-reverting fund to be known as the Body-Worn Camera System Fund. The bill follows up on the Senator's bill introduced during the 2020 Special Session to create such a program. That bill did not pass but the General Assembly approved budget language creating a one-time grant program administered by the Virginia Department of Criminal Justice Services. The current bill would create a continuing fund; it was amended to sunset on July 1, 2023.

[SB 1296](#) (Spruill) requires the Virginia Department of Emergency Management (VDEM) to establish a permanent Emergency Management Equity Working Group to ensure that emergency management programs and plans provide support to at-risk individuals and populations disproportionately affected by disasters (this may include people with disabilities or limited mobility, with limited English skills, without ready access to transportation, etc.). This follows legislative efforts during the last few sessions to incorporate greater outreach and inclusion in state and local emergency response efforts.

[HB 1874](#) (Coyner) codifies regulatory language currently before the Virginia Board of Local and Regional Jails regarding the timeline for a local or regional jail to assess an inmate whose initial screening upon intake indicates an acute mental health condition or suicidal ideations. It would require that a jail consult with a mental health professional as soon as possible and no more than 72 hours after a screening indicates potentially acute issues and to keep them under surveillance until they are assessed. Others with a potential (not acute) mental health condition would be assessed within 14 days.

It would also require the Board to review its proposed behavioral health screening and assessment language and identify barriers to ensuring that all assessments are completed within 72 hours of the initial screening and how such barriers can be overcome and report its findings and recommendations to the Secretary of Public Safety & Homeland Security and select General Assembly committees by Oct. 1, 2021.

Broadband

[SB1225 \(Boysko\)](#) **Broadband services; education.** Authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of broadband services for educational purposes. The bill authorizes school boards to partner with private broadband service providers to promote, implement, and subsidize broadband for educational purposes to the households of students who would qualify for (i) a child nutrition program or (ii) any other program recognized or adopted by the local school board as a measuring standard to identify at-risk students.

[HB1923 \(Ayala\)](#)/[SB1334 \(Edwards\)](#) **Electric utilities; broadband capacity pilot program.** Expands an existing pilot program under which Dominion Energy and Appalachian Power are authorized to provide or make available broadband capacity to Internet service providers in areas of the Commonwealth that are unserved by broadband to include municipal Internet service providers.

[HB2304 \(Tyler\)](#) / [SB1413 \(Boysko\)](#) **Provision of broadband capacity by Phase I or Phase II electric utilities.** Makes permanent the pilot program under which a Phase I or Phase II electric utility is permitted to petition the State Corporation Commission to provide broadband capacity to unserved areas of the Commonwealth. The bill expands the program to allow for the participation of municipalities and government-owned broadband authorities.

Alcohol / Gambling

[HB1879](#) / [SB1299 \(Bulova / Bell\)](#) **Alcoholic beverage control; sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption.** Allows distillers that have been appointed as agents of the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority (the Authority), mixed beverage restaurant licensees, and limited mixed beverage restaurant licensees to sell mixed beverages for off-premises consumption and deliver such mixed beverages to consumers subject to requirements set forth in the bill. The bill also allows farm winery licensees to sell pre-mixed wine for off-premises consumption. The provisions of this bill sunset on July 1, 2022. There will be study group with a report due November 1, 2021.

[HB2131 \(Lopez\)](#) **Alcoholic beverage control; license application; corrective action.** Adds the chief administrative officer of a locality to the list of persons who may be sent notice of certain license applications by the Board of Directors of the Virginia Alcoholic Beverage Control Authority. The bill also expands the definition of “criminal blight” for which the locality may require a property owner to take corrective action to include a condition existing on real property that endangers public health or safety and is caused by (i) the regular presence on the property of persons in possession of controlled substances and (ii) the discharge of a firearm under certain conditions.

[HB2266 \(Ayala\)](#) **Alcoholic beverage control; local outdoor refreshment areas.** Renames the “local special events” license as the “outdoor refreshment area” license. The bill allows the Board of Directors of the Virginia Alcoholic Beverage Control Authority to increase the frequency and duration of events held under such license after adoption of an ordinance by a locality requesting such increase in frequency and duration.

[HB2168*](#) **(Scott) Illegal gambling; skill games; civil penalty; enforcement by localities and Attorney General.** Provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill also provides that any organization or person that conducted bingo, network bingo, instant bingo, pull tabs, seal cards, raffles, duck races, Texas Hold'em poker tournaments, or regulated gaming outside of the county, city, or town in which the organization's or person's principal office or registered agent, as registered with the State Corporation Commission, is located or outside of an adjoining county, city, or town on or before February 1, 2021, may continue such activities only at those locations until June 30, 2022.

[SB1465*](#) **(Reeves) Illegal gambling; skill games; civil penalty; enforcement by localities and Attorney General.** Provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices.

**HB2168 and SB1465 are very similar.*



Workers' Compensation

[HB1818 / SB1275 \(Heretick / Marsden\) Workers' compensation; presumption of compensability for certain diseases.](#) Provides that the occupational disease presumption for death caused by hypertension or heart disease will apply for salaried or volunteer emergency medical services personnel who have at least five years of service and are operating in a locality that has legally adopted a resolution declaring that it will provide one or more of such presumptions.

[HB2207 / SB1375 \(Jones / Saslaw\) Workers' compensation; presumption of compensability for COVID-19.](#) Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after September 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after September 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

Procurement

[HB1849 \(Simonds\) Virginia Board of Workforce Development, Department of Labor and Industry, and Department of General Services; apprenticeship training programs; report.](#) Directs the Virginia Board of Workforce Development (the Board), the Department of Labor and Industry (DOLI), and the Department of General Services (DGS) to review the availability of registered apprenticeship programs in the Commonwealth and evaluate the capacity to build a program that would require contractors engaged in construction contracts with public bodies to participate in apprenticeship training programs for each trade or classification of employees engaged in the construction contract.

[HB1811 \(Helmer\) Virginia Public Procurement Act; preference for energy-efficient and water-efficient goods.](#) Provides that in the course of procuring goods, if a public body receives two or more bids for products that are Energy Star certified, meet Federal Energy Management Program (FEMP) designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, such public body may only select among those bids. If a locality does not want to use one of those two bids before selecting a different bid, it provides a written statement that demonstrates the cost of the products are unreasonable.

[HB2001* \(Helmer\) Building standards for certain state and local buildings.](#) Requires that any executive branch agency or institution or locality entering the design phase for the construction of a new building greater than 5,000 gross square feet in size or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building ensure that such building has sufficient electric vehicle charging infrastructure, defined in the bill, and has features that permit the agency or institution to track the building's energy efficiency and carbon emissions. The bill authorizes the Director of the Department of General Services to grant exemptions to such standards, in writing and with certain terms. The bill requires agencies to annually report to the Governor the energy efficiency and carbon emissions metrics for each such building built or renovated.

The bill requires localities to design such building projects according to the same or similar standards, or more stringent standards if adopted by ordinance. The bill also requires that localities incorporate appropriate resilience and distributed energy features. The bill requires that any exemption from the standards granted by resolution of the governing body of a locality be made in writing and explain the basis for granting the exemption which includes a comparison of the cost of the project over 20 years.

**This bill will apply to localities with a population of less than 100,000 on July 1, 2023.*

[HB1813 \(Krizek\) Highway construction by state or local employees; limit.](#) Increases from \$600,000 to \$700,000 the value of highway maintenance and construction projects eligible to be performed by state or local employees.

[HB1859 \(Guy\) Local financing of clean energy and other programs; when owner costs are incurred.](#) Changes the parameters for local ordinances authorizing loan contracts for the installation by property owners of clean energy, resiliency, or stormwater management improvements. The bill provides that if the property owner incurred the costs of improvements to be refinanced or reimbursed within two years of the locality's issuance of a certificate of occupancy or other evidence that the clean energy, resiliency, or stormwater management improvements comply substantially with the plans and specifications previously approved by the locality, the loan amount may include the total costs of such improvements.



Land Use / Local Government Authority

[HB1760 / SB1199 \(Webert / Petersen\) Conservation easements; construction.](#) Provides that an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act shall be construed in favor of achieving the conservation purposes for which it was created.

[HB2042 \(Guy\) / SB1393 \(Marsden\) Replacement and conservation of trees during development.](#) Gives a locality the ability to exceed general requirements in its tree replacement and conservation ordinances in specific circumstances, including development that impacts stormwater permit requirements, recurrent flooding, formerly redlined areas, and comprehensive plan compliance. The bill also directs the Secretary of Natural Resources and Secretary of Agriculture and Forestry to convene a stakeholder work group for the purpose of developing and providing recommendations to state and local governments related to policies that encourage the conservation of mature trees and tree cover on sites being developed, increase tree canopy cover in communities, and encourage the planting of trees. The bill will not become effective unless reenacted by the 2022 Session of the General Assembly, but the stakeholder work group is effective in due course.

[HB1919 \(Kory\) Local green banks.](#) Authorizes a locality, by ordinance, to establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies, defined in the bill.

[HB2201 / SB1207 \(Jones / Barker\) Solar and energy storage projects; siting agreements throughout the Commonwealth.](#) Expands existing provisions related to siting agreements for solar projects located in an opportunity zone to include energy storage projects and makes the provisions statewide. The bill provides that its provisions shall not apply to any energy storage project that has received zoning and site plan approval, preliminary or otherwise, from the host locality before January 1, 2021.

[HB2269 \(Heretick\) Revenue share for solar energy projects and energy storage systems.](#) Allows localities to assess a revenue share of up to \$1400 per megawatt on energy storage systems. The bill provides that on July 1, 2026, and every five years thereafter, the maximum amount of the revenue share that a locality may impose on certain solar energy projects and energy storage systems shall be increased by 10 percent. No increase may be made to any revenue share imposed by a locality on a solar energy project or energy storage systems for which an application has been filed with the locality and such application has been approved prior to January 1, 2021.

[SB1309 \(Ebbin\) Local stormwater assistance; flood mitigation and protection.](#) Authorizes grants from a local Stormwater Management Fund to be used for flood mitigation and protection measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality, and requires such grants, where practicable, to prioritize projects that include nature-based practices. Current law allows such funds to be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control locality to resume normal governmental authority by the end of that 12-month period.

[HB1778 \(Ward\) Removal of clutter from property; civil penalty.](#) Provides that a locality may by ordinance require the removal of clutter from property, or may, whenever the governing body deems it necessary except on land zoned for or in active farming operation, after reasonable notice, have such clutter removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. The bill defines "clutter" as including mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate. Violations of the bill are subject to the existing civil penalty applicable to violations of provisions relating to the removal of trash, garbage, refuse, litter, and similar substances from property.

[HB2046 \(Bourne\) Virginia Fair Housing Law; unlawful discriminatory housing practices.](#) Prohibits any locality, its employees, or its appointed commissions from discriminating (i) in the application of local land use ordinances or guidelines, or in the permitting of housing developments, on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability; (ii) in the permitting of housing developments because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals. The bill provides that it shall not be a violation of the Virginia Fair Housing Law if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing.



[HB2054 \(Samirah\) Comprehensive plan; transit-oriented development.](#) Adds reducing, modifying, or waiving local parking requirements or ratios to the strategies that may be included when certain larger localities consider incorporating strategies to promote transit-oriented development in reviews of their comprehensive plans. The bill removes from the existing strategy of increasing development density in certain areas to reduce density in others the phrase “to reduce density in others.”

[HB2053 \(Samirah\) Department of Housing and Community Development; stakeholder advisory group; accessory dwelling units.](#) Directs the Department of Housing and Community Development (Department) to convene a stakeholder advisory group to evaluate the construction of internal, attached, and detached accessory dwelling units as a strategy to address the Commonwealth’s growing demand for affordable and market-rate housing. The bill requires the stakeholder advisory group to report its findings and recommendations, including any legislative recommendations no later than November 1, 2021.

[HB1898 \(Roem\) Board of zoning appeals; appointments.](#) Provides an exception to the general rule that an elected official cannot be appointed to a board of zoning appeals by allowing an elected official from a town to serve on the board of zoning appeals of the county in which the member also resides.

[HB2217 \(Hodges\) Liability of public access authorities.](#) Grants public access authorities, including the land holdings and facilities of such authorities, certain liability protections that are currently given to localities in relation to parks, recreational facilities, and playgrounds.

[SB1298 \(Bell\) Tourism improvement districts.](#) Authorizes any locality to create a local tourism improvement district plan, consisting of fees charged to businesses and used to fund tourism promotion activities and capital improvements. Under the bill, the locality is authorized to contract with a nonprofit entity to administer the activities and improvements.

[SB1208 \(Barker\) Continuity of government.](#) Extends from six to 12 months the period of time after an enemy attack or other disaster that a locality may, by ordinance, provide for a method to assure continuity in its government and requires the ordinance to provide a method for the

[HB2326 \(Williams Graves\) Regulation of child-care services in localities.](#) Expands to include all cities the authority related to the regulation of child-care services that is currently available to certain Northern Virginia localities. This will have the effect of granting all cities authority by ordinance to regulate child-care facilities that provide regular care to one or more children not related by blood or marriage.

Miscellaneous

[HB2307 / SB1392 \(Hayes / Marsden\) Consumer Data Protection Act.](#) Establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law.

[SB1469 / HB2322 \(Barker / Herring\) Opioid Abatement Authority; established, report.](#) Establishes the Opioid Abatement Authority. The Authority, with the assistance of the Office of the Attorney General, would administer the Opioid Abatement Fund, which would receive moneys from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids and any other funds received on the fund’s behalf that would be used to provide grants and loans to Virginia agencies and certain localities for the purpose of treating, preventing, or reducing opioid use disorder and the misuse of opioids or otherwise abating or remediating the opioid epidemic in the Commonwealth.

[HB1881 \(Heretick\) Enterprise zone job creation grants.](#) Provides that, for purposes of wage requirements for the enterprise zone job creation grant program, the minimum wage shall be the higher of the state minimum wage or the federal minimum wage. The bill also reduces the percentage of the minimum wage that grant eligible jobs must meet. The bill has a delayed effective date of January 1, 2022.