

## 2010 VIRGINIA GENERAL ASSEMBLY Summary of Development, Land Use and Construction Issues

### PASSED

**HB51/Cole. Comprehensive plan amendments.** Grants authority to a governing body to prepare an amendment to the comprehensive plan rather than directing the planning commission to do so. If a planning commission fails to make a recommendation on a proposed amendment within the designated time frame, the local governing body may proceed to submit the proposal to a public hearing.

**HB374/Cosgrove. SB632/Obenshain. Cash proffers; acceptance by localities.** Delays collection or acceptance of a cash proffer by a locality until the completion of the final inspection of the subject property and prior to the time of the issuance of any certificate of occupancy. *(The Virginia Chamber supported this legislation.)*

**HB426/Griffith. Virginia Public Procurement Act; cooperative procurement.** Prohibits a local public body from using another local public body's contract for construction where the cost of the project is in excess of \$200,000 and the other local public body is more than a straight line distance of 75 miles from the territorial limits of the local public body procuring the construction. The bill provides an exception to the above limitation for contracts for the installation of artificial turf or other artificial surfaces. The bill contains technical amendments. *(The Virginia Chamber supported this legislation.)*

**HB515/Rust. Wetlands and stream mitigation.** Prohibits localities from regulating the location of wetlands and stream mitigation projects that are subject to a Virginia Water Protection Permit or a Corps of Engineer § 404 permit. However, a locality may continue to determine the allowed uses within its zoning classifications.

**HB882/Athey. Transfer of development rights; density bonus.** Allows localities to establish a density bonus that would permit certain property owners to transfer more property rights than the existing density would otherwise allow.

**HB1071/Athey. SB420/Vogel. Urban development areas.** Sets certain densities in urban development areas according to the population of the locality that designated the urban development area. The bill also requires that, to the extent possible, certain federal

*This summary is provided for the Virginia Chamber's members. It summarizes development, land use and construction issues acted on in the 2010 session. For bill copies or complete legislative histories, please contact the Virginia Chamber or access the state's Legislative Information System at*

<http://leg1.state.va.us/>

funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. The bill mandates that the Commission on Local Government report on localities' compliance with the statute requiring the designation of urban development areas.

**HB1220/Hugo. SB395/Wagner. Stormwater management regulations; effective date.** Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay-wide Total Maximum Daily Load, but no later than December 1, 2011. The bill also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. *(The Virginia Chamber supported this legislation. HB155/Dance and HB1311/Bulova were incorporated into HB1220, and SB245/Watkins, SB677/Hanger and SB681/Whipple were incorporated into SB395.)*

**HB1250/Knight. Vested rights.** Provides that the issuance of any written order, requirement, decision, or determination by the zoning administrator regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to change, modification, or reversal shall be considered a significant affirmative governmental act for purposes of determining vested rights. *(The Virginia Chamber supported this legislation.)*

**HJ135/Athey. SJ89/Vogel. Study; Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities; report.** Continues the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities for one year to examine and monitor the transition to channeling development into Urban Development Areas and determine if additional legislation is needed to help localities as they transition to Urban Development Areas. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

**SB627/Wagner. Nutrient reduction credits.** Clarifies who receives credit for the nutrient reductions associated with a stormwater nonpoint nutrient offset. Offsets are used to achieve compliance with construction site stormwater nutrient discharge requirements. The nonpoint nutrient offsets system works very similar to wetland banks. These offsets are only available when capturing all nutrients is too difficult on a development site. If the land disturbing activity using a nonpoint nutrient offset discharges to an MS4, the locality receives credit toward its nutrient allocation. If the discharge is not to a MS4 then the reductions are applied toward compliance with the nutrient allocation applicable to that area.

## **FAILED**

**HB336/R/G. Marshall. Cash proffers; alternate improvements.** Broadens a locality's ability to use cash proffers for capital projects other than those for which the cash was originally proffered under certain circumstances. *(The Virginia Chamber opposed this legislation.)*

**HB422/Hope. Uniform Statewide Building Code; regulations of the Board of Housing and Community Development.** Requires the Board of Housing and Community Development to adopt regulations establishing standards for new construction of single-family residential buildings to meet minimum standards for accessibility for persons with disabilities, including provision for (i) doorway entrances of at least 32 inches in width; (ii) accessible pathways of at least 36 inches in width throughout the first floor; (iii) at least one accessible no-step main floor entryway; (iv) accessible environmental controls, including electrical outlets at least 18 inches above the floor and light switches at least 44 inches above the floor; and (v) at least one bathroom on the first floor that is capable of supporting the installation of grab bars and other assistive equipment. The bill provides that such standards may include reasonable exemptions from such requirements as deemed appropriate by the Board.

**HB987/Jones. SB650/Quayle. Regulation of stormwater.** Amends current law by removing the requirement that waivers given to federal, state, or local government agencies that develop, redevelop or retrofit outfalls, discharges or property so that there is a permanent reduction in postdevelopment stormwater flow and pollutant loading be full waivers. The amount of the waiver to such agencies shall be equal to the product of the fee that would be charged to the agency multiplied by the percentage of the stormwater runoff captured by the agency's storm drainage or stormwater control facilities.

**HB1008/Athey. Board for Contractors; license renewal; continuing education for contractors.** Authorizes the Board for Contractors to establish in its regulations a requirement for the successful completion of a course on building codes, not to exceed three hours of classroom instruction, as a prerequisite to renewal of any license. The Board may approve such courses as it deems appropriate.

**HB1013/Athey. SB418/Vogel. Virginia Infrastructure in Urban Development Areas Loan Fund.** Creates the Virginia Infrastructure in Urban Development Areas Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of road, small water facility, and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. Priority

*This summary is provided for the Virginia Chamber's members. It summarizes development, land use and construction issues acted on in the 2010 session. For bill copies or complete legislative histories, please contact the Virginia Chamber or access the state's Legislative Information System at*

<http://leg1.state.va.us/>

for loans would be given to projects that will serve two or more local governments to encourage regional cooperation.

**HB1062/Athey. Decisions of zoning administrator.** Reduces the time in which a zoning administrator shall respond to a request for a decision or determination on zoning matters from 90 days to 60 days and provides that if the zoning administrator fails to respond within the 60-day period, the party seeking the decision or determination may file a writ of mandamus in circuit court to compel a response. The party filing the writ of mandamus shall be entitled to its cost, including reasonable attorney fees.

**SB123/Petersen. Single lot development; stormwater management.** Requires the developer of a single lot to provide stormwater management where substantial redevelopment of the lot is proposed. Defines “substantial redevelopment” as land-disturbing activities that occur on more than 15 percent of the square footage of any single lot.

**SB448/Stuart. Alternative onsite sewage systems.** Allows any locality to enact an ordinance prohibiting the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating when sewers or sewerage disposal facilities are not available.

**SB551/Barker. Local rezoning actions.** Provides for more limited review by VDOT when a property being considered for rezoning has already been subject to a VDOT review in connection with development of a local comprehensive plan.

**SB571/Ticer. Zoning; transfer of development rights.** Allows any county with the urban county executive form of government to provide in its zoning ordinances for the dedication of density or other rights to develop real property, as defined by the county, from one or more parcels of property located in the county that are not the subject of a development application to one or more parcels of property located elsewhere in the county that are the subject of a development application. Currently, Fairfax County is the only county with the urban county executive form of government.

**SB640/Martin. Cash proffer guidelines.** Provides that no locality shall establish any rate policy or guideline regarding the amount and timing of the payment of cash proffers to such locality unless such rate policy or guideline is established by ordinance.