
Updated: Proposed Legislation Before the Virginia General Assembly Which May Be Of Interest To Contractors and Developers

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This update is not legal advice and reflects only some of proposed legislation in the Virginia 2013 General Assembly session. More information regarding 2013 proposed legislation can be found on the Virginia General Assembly's Legislative Information System (<http://leg1.state.va.us/lis.htm>). Additional information may be obtained by contacting Chandra Lantz at clantz@hf-law.com or 804.771.9586.

BUILDING CODES

SB 894 Uniform Statewide Building Code; who may be cited for violations.

Clarifies that a local enforcement officer may issue a summons or a ticket to the owner, lessor, or sub lessor of a residential dwelling unit for violation of any Building Code provision.

HB 1574 Uniform Statewide Building Code; enforcement by towns.

Provides that if any town does not elect to enforce the Uniform Statewide Building Code, then such enforcement shall be the responsibility of the county in which the town is situated.

HB 2310 Mountain ridge construction.

Gives localities greater flexibility to define the height of "tall buildings and structures" for purposes of mountain ridge construction regulation.

BUILDING REVITALIZATION GRANT

SB 748 Building Revitalization Grant Fund Created.

Establishes the Building Revitalization Grant Fund administered by the Department of Housing and Community Development to award grants of up to \$100,000 to businesses that make a capital investment of \$1 million in revitalizing or retrofitting existing buildings to serve as a new place of business.

EMINENT DOMAIN

HB 2306 Eminent domain; just compensation; tax assessments.

Provides that just compensation paid for real property taken pursuant to eminent domain shall not be less than the appraisal of the fair market value of such property, if such an appraisal is required, or the current assessed value of such property for real estate tax purposes when the

entire parcel for which the assessment has been made is to be acquired, whichever is greater. Under current law, just compensation shall not be less than the appraisal of fair market value if such an appraisal is required.

INCOME TAX

SB 745 Corporate income tax; lower rate for certain businesses.

Reduces the corporate income tax rate from six percent to three percent for the first three years after a business located outside Virginia opens a satellite office in a Virginia locality with a population of 200,000 or less or after a business located in a Virginia locality with a population exceeding 200,000 opens a satellite office or operation in a Virginia locality with a population of 200,000 or less, for taxable years beginning on or after January 1, 2013. The bill provides that the capital investment made by the corporation must be \$250,000 or more and the tax reduction may not exceed the amount of that capital investment.

SB 747 Income tax, corporate; creates industrial building rehabilitation tax credit.

Creates a tax credit, not to exceed \$100,000, for businesses that rehabilitate or retrofit vacant older industrial buildings in which a new business is located for taxable years beginning on and after January 1, 2014 and ending December 31, 2018.

HB 1303 Tax credit for small businesses hiring graduates of Virginia's public colleges.

Establishes, beginning January 1, 2013, an individual and corporate income tax credit for certain small businesses creating new full-time jobs that are filled by persons holding associate's or bachelor's degrees from public institutions of higher education in the Commonwealth. The credit would equal \$2,500 for each such new full-time job. The credit would be claimed for the taxable year at which time the new full-time job was continuously filled for at least 12 months. Any unused credit would be allowed to be carried over for five taxable years. The tax credit would sunset in 2015.

INSURANCE

HB 1528 Insurance Notices.

Provides that only the first named insured is required to be given notice by the insurer of the cancellation or nonrenewal of certain commercial insurance policies.

LABOR AND EMPLOYMENT

SJ 293 and HJ 536 Constitutional amendment; right to work.

Provides that any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization are denied the right to work for the employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is against public policy and constitutes an illegal combination or conspiracy.

HB 1385 Right to vote by secret ballot on labor organization representation.

Declares that, in any procedure providing for the designation, selection, or authorization of a labor organization to represent employees, the right of an individual employee to vote by secret ballot is a fundamental right that shall be guaranteed from infringement.

HB 1572 Workers' compensation insurance; experience modification factor.

Prohibits the use of an accident in determining an insured employer's experience modification factor or level, for purposes of workers' compensation insurance, if the accident is the fault of an unrelated third party.

LAND DEVELOPMENT AND ZONING

HB 1404 Residential development; impact fees to defray costs of public facilities.

Authorizes any locality to impose impact fees on residential developments in order to defray the costs of constructing public facilities necessitated by those developments. Under current law, such impact fees may be imposed only by those localities that have established urban transportation service districts.

HB 1429 Zoning; attorney fees.

Provides that a court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in a zoning action brought against it or that successfully challenges the validity of a zoning ordinance.

HB 2238 Recorded plats & final site plans; plan shall be deemed final once it has been reviewed & approved.

Provides that a site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirement remaining to be satisfied in order to obtain a building permit is the submission of any other administrative documents, agreements, deposits, or fees required by the locality in order to obtain the permit. The bill also amends a 2012 act by adding an enactment that clarifies the validity of previous extensions of valid plats and site plans.

HB 2239 Cash proffers; shall not be used for any capital improvement to an existing facility.

Provides that cash proffers shall not be used for any capital improvement to an existing facility that does not expand facility capacity or for any operating expense of an existing facility such as ordinary maintenance or repair.

SB 1293 Comprehensive plan; transportation.

Provides that the transportation component of a local comprehensive plan shall be consistent at the interstate and primary levels with various state and local transportation plans. The bill also shortens from 90 to 45 days the time period by which the Department of Transportation shall provide comment upon submission of such local plans for review.

MECHANICS' LIENS

HB 317 Mechanics' lien agent; building permit.

Expands the requirement that the mechanics' lien agent, if one is named in the building permit, be notified of mechanics' liens before such liens may be perfected to cover any improvements to real estate for which the building permit application states a value of \$5 million or less. Currently, this requirement only applies to building permits for one- or two-family homes.

HB 1265 Perfection of a lien by general contractor; recordation and notice.

Would add a requirement that at least 60 days prior to filing a memorandum of lien, a lien claimant shall send a copy of the memorandum and written notice of the lien claimant's intention to file the memorandum by certified mail, return receipt requested, to the owner of the property at the owner's last known address and also file a copy of the written notice with the clerk of court. No lien would be accepted for recordation prior to the expiration of this 60-day period or that is not accompanied by a copy of the notice sent to the property owner.

HB 1436 Mechanics' lien agent; notice.

Provides that any person intending to perfect a mechanics' lien against a one-family or two-family residential dwelling unit must send the mechanics' lien agent designated on the building permit or, if no agent is designated on the permit, the property owner written notice of his intention at least 30 days before filing the memorandum of lien with the clerk of the court.

PROFESSIONAL REGULATION

SB 871 VA Board for Asbestos, Lead, and Home Inspectors; exam.; initial asbestos worker license applicants.

Provides for the Board for Asbestos, Lead, and Home Inspectors to require initial applicants for an asbestos worker license to pass an examination administered the Board or by a testing organization acting on behalf of the Board. The bill also requires employers to provide each licensed asbestos worker with a written notice containing the following information: (i) a statement that the worker has the right to work in a safe environment, (ii) a summary of basic safety rules for handling asbestos, and (iii) information on how to file a complaint with the Board. In addition, the bill empowers the Board to summarily suspend the license of an asbestos contractor if the Board finds that the asbestos contractor's conduct poses a substantial danger to the public health or safety.

SB 1316 Board for Professional Soil Scientists, Wetland Professionals, and Geologists; requirements for certification as a wetland delineator.

Removes the requirement that experience in wetland delineation prior to applying for certification as a wetland delineator must have occurred under the supervision of a certified professional wetland delineator.

PUBLIC-PRIVATE TRANSPORTATION AND EDUCATION PROJECTS

SB 713 Removes Port Facility from Public-Private Transportation Act.

Removes port facility as defined in § 62.1-140 from the definition of "transportation facility" under the Public-Private Transportation Act.

HB 1689 Public-Private Transportation Act of 1995; approval required for comprehensive agreements involving the sale or long-term lease of port facilities.

Provides that where a responsible public entity is a state agency, then any proposed comprehensive agreement for a qualifying transportation facility that involves the sale of a port facility or a lease to operate a port facility for a period of 10 years or more shall be reviewed by the General Assembly prior to execution. The bill defines "port facility" and "state agency."

HB 1690 Public-Private Transportation Act; definition of transportation facility; port facility excluded.

Removes port facility from the definition of "transportation facility" under the Public-Private Transportation Act. The bill also provides that the Virginia Port Authority is not included in the definition of "public entity" or "responsible public entity" under the Public-Private Transportation Act.

HB 1692 Public-Private Transportation Act; receipt of competing proposals; disclosure of major business points.

Requires that within 30 days of the receipt of an unsolicited proposal for the development or operation of a qualified transportation facility, a responsible public entity shall post a public notice of the unsolicited proposal on the Department of General Service's electronic procurement website and provide 120 days for the submission of any competing proposals. The bill specifies that the notice is to include specific information regarding the nature, timing, and scope of the qualifying transportation facility, and that the responsible public entity must afford opportunities for public comment on the proposals submitted. The bill also requires that once the negotiation phase for the development of an interim or a comprehensive agreement is complete and a decision to award has been made by a responsible public entity, the responsible public entity is required to post the major business points of the interim or comprehensive agreement. The bill contains technical amendments.

HB 2258 Public-Private Transportation Act of 1995 and the Public-Private Education Facilities.

Requires the responsible public entity to obtain the approval of each affected jurisdiction prior to the execution of a comprehensive agreement under the Public-Private Transportation Act of 1995 (PPTA) or the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) whenever the development or operation of the qualifying transportation facility or project impacts local tax revenues or increases the fees or expenses that are paid by residents of the affected jurisdictions. The bill also (i) provides for the guidelines established by a responsible public entity under the PPTA to require that a final environmental impact study be completed prior to commencing project development and (ii) prohibits a comprehensive agreement under the PPTA from containing a non-compete or damage provision or any similar provision requiring

additional payments to the private entity to recover reduced revenue due to improvements made by the Commonwealth to any other transportation facility.

PUBLIC PROCUREMENT ACT

SB 902 Virginia Public Procurement Act; alternative forms of security.

Authorizes the acceptance of a cashier's check in lieu of a bid, payment, or performance bond. Currently the only acceptable alternative forms of security are a certified check or cash escrow.

HB 1624 Virginia Public Procurement Act; contracts with state agencies for transportation facility; agreements with labor organizations.

Provides, under certain conditions, that when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of a transportation facility paid for in whole or in part by state funds, or when overseeing or administering such procurement, neither the Commonwealth Transportation Board nor any state transportation agency nor any construction manager acting on behalf of such entities shall, in their bid specifications, project agreements, or other controlling documents, provide an incentive in the scoring of such bids that favors entities entering into project labor agreements.

HB 2078 Virginia Public Procurement Act; design-build; construction management; protests; private investment.

Increases public notice of requests for proposals from 10 to 30 days. The bill also (i) limits the use of competitive negotiation for construction projects, including certain public institutions of higher education, for which the aggregate or sum of all phases is not expected to exceed \$10 million, the nature of the project is such that it is unusually complex or extraordinary conditions exist, and the Director of the Department of General Services and the Secretary of Administration certify such conditions exist; (ii) requires posting on eVa and other appropriate websites for state and local public bodies using certain methods of procurement; (iii) changes the process for procurement of design-build or construction management projects; and (iv) allows a bidder or offeror to protest a public body's use of competitive negotiation. The bill contains technical amendments.

HB 2210 Virginia Public Procurement Act; procurement of professional services.

Allows certain cities to procure architectural or professional engineering services relating to multiple construction projects where the sum of all such projects does not exceed \$5 million. The bill also allows such localities to procure such services for a single project where the project does not exceed \$1 million. Currently, only localities with a population in excess of 80,000 have this authority.

HB 2212 Virginia Public Procurement Act; women-owned and minority-owned businesses; remedial measures.

Provides that the Governor shall require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law when a persuasive analysis exists that

documents statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses.

HB 2316 Virginia Public Procurement Act; multiple project contracts for architectural or professional engineering services relating to construction.

Raises, for certain local public bodies, the maximum cost of architectural or professional engineering services for all projects in one contract term of a multiple project contract from \$500,000 to \$1.5 million, and raises the maximum cost of architectural or professional engineering services for any single project from \$100,000 to \$500,000 for airports and aviation transportation projects. For a locality or authority or sanitation district with a population in excess of 80,000, the bill raises the maximum cost of such services from \$1 million to \$2 million.

HB 2319 Hampton Roads Sports and Entertainment Facility Authority.

Makes numerous changes intended to facilitate the attraction and operation of a National Hockey League or National Basketball Association franchise, including exempting the Authority from the Virginia Public Procurement Act.

HB 2320 City of Virginia Beach; sports or entertainment arena.

Gives the City of Virginia Beach rights similar to those that had been given in the past to the Hampton Roads Sports Facility Authority in constructing an arena for professional sports teams or for conferences and entertainment events. Among those rights is the authority to (i) issue bonds to construct an arena, and (ii) receive state income tax and sales tax revenue that is attributable to an arena, to repay the bonds.

SMALL BUSINESS MANDATES

SB 891 Commission on Small Business Mandates established.

Creates the Commission on Small Business Mandates to review the impact of any mandates established by state law or by rules and regulations promulgated by state agencies on small businesses and make recommendations to the Governor and the General Assembly on actions that may be taken to minimize or alleviate any adverse impact. The bill also authorizes the Commission to suspend the effective date of any portion or all of a final regulation with the concurrence of the Governor.

VIRGINIA PORTS

SB 716 and HB 1334 Virginia ports; change in ownership.

Requires approval of both the Governor and the General Assembly before any change in ownership of any Virginia port is permitted.

HB 1691 Virginia Port Authority; acquisition and lease of property; limitations.

Prevents the Commonwealth and the Virginia Port Authority from accepting any unsolicited proposal under the Public-Private Transportation Act or the Public-Private Education Facilities and Infrastructure Act regarding the ownership or operation of any seaport or port facility.