



Virginia Legislative Update February 12, 2010

With the crucial “crossover” date just 4 days away, the following is an update on several pieces of legislation that may impact the operations, financing, or service delivery of nonprofits across Virginia. At close of business on February 16 (“crossover”), all legislation must have passed the side of the legislature in which it was introduced—either the House of Delegates or the Senate—in order to remain active. Legislation that fails to pass either the House or the Senate at the point is considered “dead” for the duration of the session. The legislation, or an alternative form of it, may be introduced in the 2011 General Assembly.

E-Verify Amendment:

VANNO is closely monitoring the status of a budget amendment introduced by Delegate Lingamfelter (***HB 30, Item 4-605 #1h***). This amendment would make mandatory what is now a voluntary requirement that nonprofits, who are compensated by the Commonwealth of VA, utilize the on-line E-Verify system in their hiring practices. The system allegedly compares an employee's I-9 information with over 444 million records in the Social Security Administration databases and more than 60 million records maintained by the Department of Homeland Security immigration databases. Some of our constituents have expressed concern that this amendment would place an additional, onerous administrative burden on nonprofit employers that would impose on staff time, increase compliance requirements without achieving any efficiency, and threaten an organization's financial resources. Please contact VANNO Executive Director Deborah Williamson at dwilliamson@vanno.org with your input on this amendment.

Presently, the following pieces of legislation from VANNO's Legislative Update, February 5, 2010 will survive crossover:

HB 1213. Department of Historic Resources; historic preservation grants. Clarifies and makes several technical and procedural changes to the authority of the Department of Historic Resources to supervise state moneys appropriated to organizations, including localities and private entities, and related to historic preservation. **Status: Passed House. Referred to Senate Committee on Agriculture, Chesapeake and Natural Resources**

HB 436 (Companion to SB 291). Donations by localities; energy efficiency. Provides that a locality may make gifts and donations to any nonprofit organization, association, or agency that is engaged in providing energy efficiency services or promoting energy efficiency within or without the boundaries of the locality. *Status: Passed House. Referred to Senate Committee on Local Government*

SB 291 (Companion to HB 436). Donations by localities; energy efficiency. Provides that a locality may make gifts and donations to any nonprofit organization, association, or agency that is engaged in providing energy efficiency services or promoting energy efficiency within or without the boundaries of the locality. *Status: Passed the Senate. Referred to House Committee on Counties, Cities, & Towns.*

HB 1245. Surplus property of local school boards. Authorizes local school boards to convey title to surplus real property to a Virginia nonprofit charitable organization or to donate obsolete personal property to such an organization. *Status: Passed by House.*

HJ 182. Recognizing the important contributions of philanthropy and private foundations and encouraging the formation and creation of these entities in the Commonwealth of Virginia. *Status: Passed House. Referred to Senate Committee on Rules.*

SB 633. Neighborhood assistance tax credits; impoverished people. Changes the definition of "impoverished people" for education proposals under the Neighborhood Assistance Act Tax Credit program from 180 percent to 200 percent of the current federal poverty guidelines. As a condition of eligibility for a neighborhood assistance tax credit, current law requires that at least 50 percent of the persons served by a neighborhood organization are impoverished people. *Status: Passed Senate. Referred to House Committee on Finance.*

HB 717 (Companion SB 614). Civil War Site Preservation Fund established. Establishes the Civil War Site Preservation Fund for the purpose of awarding grants to private nonprofit organizations to preserve endangered Virginia Civil War historic sites. The bill sets out eligibility criteria for receiving a matching grant from the fund. The Director of the Department of Historic Resources is responsible for administering the fund. *Status: Passed House. Referred to Senate Committee on Agriculture, Conservation and Natural Resources.*

SB 614 (Companion HB 717). Civil War Site Preservation Fund established. Establishes the Civil War Site Preservation Fund for the purpose of awarding grants to private nonprofit organizations to preserve endangered Virginia Civil War historic sites. The bill sets out eligibility criteria for receiving a matching grant from the fund. The Director of the Department of Historic Resources is responsible for administering the fund. *Status: Passed Senate*

HB 1039 (Companion SB 224). Notification of breach of medical information. Requires notification to residents of the Commonwealth if their unredacted or unencrypted medical information or insurance information is the subject of a database breach. The notification required by this section would apply only to entities not subject to federal medical information database breach notification regulations. *Status: Passed House. Referred to Senate Committee on Education and Health.*

SB 224 (Companion HB 1039). Notification of breach of medical information. Requires notification to residents of the Commonwealth if their unredacted or unencrypted medical information or insurance information is the subject of a database breach. The notification required by this section would apply only to entities not subject to federal medical information database breach notification regulations. *Status: Passed Senate. Referred to House Committee on Health, Welfare and Institutions.*

HB 710. Health care data and reporting; ranking of health care providers. Requires any nonprofit agency with which the Department of Health contracts for the compilation, storage, analysis, and evaluation of data submitted by health care providers to develop a system of ranking or grading health care providers and making such rankings available to the public. *Status: Passed House. Referred to Senate Committee on Education and Health.*

SB 563. Charitable organizations; exemptions to reporting requirements. Adds veterans' posts or organizations to those groups that are exempt from submitting annual registration statements. *Status: Passed Senate. Referred to House Committee on General Laws*

HB 612. Corporations; payment of annual registration fees. Requires that payments of annual registration fees assessed against a corporation be applied to the corporation's oldest unpaid annual registration fee assessment or penalty. The measure provides that annual registration fees shall be due in the anniversary month of the date when the corporation was incorporated, or authorized to transact business or conduct its affairs in the Commonwealth if it is a foreign corporation. The measure also clarifies the procedure by which a corporation's corporate existence or authority to transact business or conduct its affairs in the Commonwealth is automatically terminated if it fails to pay its annual registration fee by the last day of the fourth month following the fee's due date. *Status: Passed House. Referred to Senate Committee on Commerce and Labor*

SB 116. Virginia Consumer Protection Act; religious bodies. Provides that any transaction that involves the advertisement, sale, lease, or license, or the offering for sale, lease or license, of goods or services to a church or other religious body constitutes a "consumer transaction" for purposes of the Virginia Consumer Protection Act. *Status: Passed Senate. Referred to House Committee on Commerce and Labor.*

HB 495 (Companion SB 117). Serving of meals by churches. Exempts churches serving meals consisting of food prepared in the homes of members or in the kitchen of the church from licensure requirements applicable to restaurants. *Status: Passed House. Referred to Senate Committee on Education and Health.*

SB 117 (Companion HB 495). Serving of meals by churches. Exempts churches serving meals consisting of food prepared in the homes of members or in the kitchen of the church from licensure requirements applicable to restaurants. *Status: Passed Senate. Referred to House Committee on General Laws.*

HB 524 (Companion SB 507). Secretary of the Commonwealth; lobbyist disclosure.

Redesigns the Lobbyist's Disclosure Statement to clarify information requested and increase compliance. Among other things, the redesigned form requires a lobbyist to include a list of all House of Delegates or Senate bills for which he has lobbied and changes the manner in which entertainment and gift expenses are reported. The bill also provides that a lobbyist who files the statement electronically is not required to provide a paper copy. In addition, the bill provides that the Secretary of the Commonwealth shall review the lobbyist disclosure statements for completeness and accuracy and if a statement is not properly completed, the entire filing will be rejected and returned to the lobbyist. The lobbyist must submit a revised statement within 30 days from receipt of the returned statement. *Status: Passed the House. Referred to Senate Committee on Rules*

SB 282. Landlord and Tenant; eviction procedure; acceptance of redemption tenders.

Provides that when a tenant presents on or before the first return date on an action for unlawful detainer a redemption tender from a local government's eviction prevention agency, a church or other religious institution, or a nonprofit organization in the amount of all current rent, reasonable late charges, attorney fees, and court costs, the court shall continue the action for 10 days. *Status: Passed Senate. Referred to House Committee on General Laws.*

HB 950. Charitable gaming; regulations of the Charitable Gaming Board; prohibited acts.

Limits the number of bingo games per session to no more than 50; requires the Charitable Gaming Board to adopt regulations prescribing (i) the condition by which nonmembers of an organization may participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game and (ii) the minimum time interval required between the conduct of bingo games, which time shall not be less than 30 minutes; increases the number of Lucky 7 and other progressive bingo games from one to six per session; and eliminates winner-take-all games. The bill also requires that the Department of Agriculture and Consumer Services shall report to the chairs of the House Committee on General Laws and the Senate Committee on General Laws and Technology on or before December 1, 2010 concerning the Department's efforts to increase the number of Department-approved independent laboratory testers in order to expedite the Department's approval process for new charitable games. The bill is a recommendation of the Special Subcommittees of the House Committee on General Laws and the Senate Committee on General Laws and Technology. *Status: Passed the House.*

HB 507. Regulation of certain transportation services. Provides that a local transportation service that operates as a nonprofit organization and that primarily serves senior citizens and disabled citizens shall be exempted from all local regulation of taxi services and other for-hire transportation services. *Status: Passed the House (with amendments).*

SB 644 (Companion to HB 677). Specialized Biotechnology Research Performance Grant Program; established. Establishes the Specialized Biotechnology Research Performance Grant Program for nonprofit entities engaged in research, development, and production related to molecular diagnostics and drug development that enter into a performance-based memorandum of understanding with the Commonwealth prior to June 30, 2010. Grants would be paid to an eligible entity based in Fairfax County that commits in the memorandum of understanding and

fulfills its obligation to (i) make a new capital investment of at least \$200 million, (ii) create at least 415 new full-time jobs, and (iii) meet any other criteria set forth in the memorandum of understanding. Grants from the program to a qualified entity shall not exceed \$22 million in the aggregate. *Status: Passed the Senate.*

The following pieces of legislation may survive crossover. They are before their respective houses for a full vote.

HB 114. Provides that campaign contributions made through a stored value card may never be accepted. The bill defines the term "stored value card." The bill also adds a provision applicable to candidate campaign committees that the candidate or committee cannot accept any contribution that is not attributable to an identified person and if received, such amounts must be contributed to charity. *Status: Reported from House Committee on Privileges and Elections. Awaiting vote by full House.*

HB 928 (Companion Bill SB 326 stricken at the request of its patron). Virginia Universities Clean Energy Development and Economic Stimulus Foundation. Creates the Virginia Universities Clean Energy Development and Economic Stimulus Foundation as a body corporate and a political subdivision of the Commonwealth. The Foundation shall identify, obtain, disburse, and administer funding for (i) research and development of alternative fuels, clean energy production, and related technologies; (ii) support of economic development projects in disadvantaged rural areas; and (iii) the provision of assistance in the commercialization of alternative fuels and clean energy technologies. Funding shall be awarded only to those proposed projects that best meet the established criteria and purposes of this act. *Status: Reported from House Committee on Rules (with amendments). Awaiting vote by full House.*

HB 141. Land preservation tax credit. Provides that only those nonprofit organizations that hold a conservation easement acquired pursuant to the Virginia Conservation Easement Act are ineligible to receive land preservation tax credits for donations of qualifying real property. *Status: Reported from House Committee on Finance. Awaiting vote by full House.*

HB 1224. Neighborhood Assistance Act Tax Credit. Makes localities' health care programs eligible to receive tax credits that can be transferred to professionals donating their services to the programs. *Status: Reported out of the House Committee on Finance (with amendment). Awaiting vote before the full House.*

HJ 27. Study; indigent health care in the Commonwealth; report. Directs the Joint Legislative Audit and Review Commission to (i) determine the volume of indigent health care provided by private, specialty, and not-for-profit hospitals in the Commonwealth; (ii) determine the financial cost of indigent health care to private, specialty, and not-for-profit hospitals in the Commonwealth; and (iii) identify and analyze potential tax and other incentives that may be offered to private and specialty hospitals and other health care providers to encourage the

provision of care to indigent individuals. *Status: Reported from House Committee on Commerce and Labor (with substitutes). Awaiting vote by full House.*

SB 653. Certificate of public need; exception. Allows the Commissioner of Health to accept and approve a request to amend the conditions of a certificate of public need issued to a continuing care provider registered with the State Corporation Commission in which nursing facility or extended care services are provided to allow such continuing care provider to continue to admit community patients, other than contract holders, to its nursing facility beds through December 31, 2013, if the following conditions are met: (i) the facility is operated as a not-for-profit and (ii) the facility's contract holder occupancy rate is less than 85 percent at the time of such application. *Status: Reported from Senate Committee on Education and Health (with amendments). Before the full Senate for vote.*

HB 965. Office of the Attorney General; Department of Agriculture and Consumer Affairs; powers and duties relating to consumer protection laws. Transfers investigative and consumer complaint and dispute resolution functions for certain consumer protection laws from the Office of Consumer Affairs within the Department of Agriculture and Consumer Affairs to the Division of Consumer Counsel within the Office of the Attorney General. *Status: Reported from House Committee on General Laws (with substitutes). Before the full House for vote.*

HB 960. Local housing fund. Provides that any locality may establish by resolution a housing fund, the purpose of which will be to assist for-profit or nonprofit housing developers or organizations to develop or preserve affordable housing for low and moderate income persons. *Status: Reported from House Committee on Counties, Cities, and Towns. Awaiting full vote by House.*

These pieces of legislation will need to see a flurry of activity over the next few days; their survival is uncertain.

HB 1046. Income tax; nonprofit charitable donations for Energy Star qualified products tax credit. Grants an income tax credit for taxable years beginning on or after January 1, 2010, to individual taxpayers and business taxpayers that make a cash donation to charitable nonprofit organizations that use the donation to construct, purchase, or lease Energy Star qualified products for their headquarters on or after January 1, 2010. The amount of the credit equals 50 percent of such equipment expenditures but not more than \$25,000 total. *Status: Tabled in House Subcommittee on Finance*

HB 470. Condominium Act; Property Owners' Association Act; foreclosure on lien for unpaid assessments; priority of certain liens. Provides that a property owners' or condominium association may conduct a foreclosure sale on a lien for unpaid assessments subject to the lien of a first trust. The bill also provides that such portion of the unpaid assessments directly attributable to the maintenance and upkeep of the common areas and such other areas of association responsibility expressly provided for in the declaration, including capital expenditures shall be prior to all other liens and encumbrances. The bill contains technical amendments. *Status: Referred to House Committee on General Laws*

HB 599. Income tax; Public/Private Education Investment Tax Credit. Creates income tax credits for business entities and individual taxpayers who make contributions to eligible public school foundations and eligible scholarship foundations. For individual taxpayers, the amount of the annual credit is 100 percent of the contribution but may not exceed \$800 for individual taxpayers and \$1,200 for married taxpayers filing jointly. The amount of the annual credit for business entities is 90 percent of the contribution with no limit on the dollar amount. The public school foundations are required to disburse annually 90 percent of the contributions for capital improvement projects approved by the local school board and for extracurricular activities. The scholarship foundations are required to disburse 90 percent of the contributions for qualified educational expenses through scholarships. There is a \$20 million cap on total tax credits awarded annually, with \$10 million allocated for contributions made to public school foundations and \$10 million allocated for contributions made to scholarship foundations. The credit would be effective for taxable years beginning on and after January 1, 2011. *Status: Reported from House Subcommittee on Elementary and Secondary (with amendments)*

HB 677 (Companion to SB 644). Specialized Biotechnology Research Performance Grant Program; established. Establishes the Specialized Biotechnology Research Performance Grant Program for nonprofit entities engaged in research, development, and production related to molecular diagnostics and drug development that enter into a performance-based memorandum of understanding with the Commonwealth prior to June 30, 2010. Grants would be paid to an eligible entity based in Fairfax County that commits in the memorandum of understanding and fulfills its obligation to (i) make a new capital investment of at least \$200 million, (ii) create at least 415 new full-time jobs, and (iii) meet any other criteria set forth in the memorandum of understanding. Grants from the program to a qualified entity shall not exceed \$22 million in the aggregate. *Status: Reported from House Subcommittee on Economic Development, Agriculture and Natural Resources.*

HB 917. Business entity fees for veterans. Reduces the fee for filing articles of organization of a domestic limited liability company and the charter fee for a domestic corporation to \$25 if each member and manager, or director and shareholder, as applicable, is a veteran. The annual registration fees for such entities are also reduced to \$25 for each entity's first two years of existence. *Status: Tabled in House Committee on Commerce and Labor*

SB 281. Child labor; animal welfare organizations. Authorizes the participation by children of any age in all activities of any nonprofit entity organized to provide for the care and welfare of animals. However, children aged 13 and younger may participate only if accompanied by a parent. *Status: Referred to Senate Committee on Commerce and Labor*

HB 425. Income tax; voluntary contributions of income tax refunds. Provides for a new check-off for tax refund contributions made by individual and corporate taxpayers for pre-approved nonprofit human services programs throughout the Commonwealth. The check-off will be added to the waiting list, if the bill is enacted. *Status: Tabled in House Subcommittee on Finance.*

HB 1222. Voluntary Solar Resource Development Fund; grant program. Requires electric utilities to provide customers with the option to make voluntary contributions to the Voluntary Solar Resource Development Fund, which is established by this measure. Moneys in the Fund will be allocated by the State Corporation Commission as grants for projects that involve the acquisition, installation, or operation of photovoltaic devices, solar water heating devices, or solar space heating devices at a residence, structure occupied by a nonprofit organization, or commercial establishment. *Status: Tabled in House Committee on Commerce and Labor*

HB 1030. Charitable gaming; oversight by the Department of Agriculture and Consumer Services. Limits the oversight by the Department of Agriculture and Consumer Services over charitable gaming in Virginia to the (i) issuance and renewal of permits to conduct charitable gaming, (ii) registration of bingo managers and callers, and (iii) licensing of charitable gaming suppliers. The bill likewise limits the regulatory authority of the Charitable Gaming Board to the above three areas. The bill requires every organization that conducts charitable gaming to obtain a permit from the Department. The bill contains numerous technical amendments. *Status: Referred to House Committee on General Laws*

HB 1078. Charitable gaming; reports and audits; exceptions. Exempts volunteer fire departments and rescue squads from filing quarterly reports of their charitable gaming activity with the Department of Agriculture and Consumer Services. The bill also exempts these entities from having their annual reports audited by the Department of Agriculture and Consumer Services. *Status: Referred to House Committee on General Laws.*

HJ 48. Study; joint subcommittee to study the extent and cost of hunger and malnutrition in the Commonwealth; report. Establishes a joint subcommittee to study the extent and cost of hunger and malnutrition in the Commonwealth, including the scope and nature of hunger in the Commonwealth, the impacts of hunger on the Commonwealth, and promising practices for reducing hunger. *Assigned to House Rules Subcommittee on Studies.*

HB 955. Workers' compensation; occupational disease presumption. Adds salaried and volunteer lifesaving and rescue squad members to the list of public safety personnel who are entitled to a presumption that hypertension and heart disease are occupational diseases suffered in the line of duty that are covered under the Workers' Compensation Act. *Status: Referred to House Committee on Commerce and Labor*

SB 507 (Companion HB 524). Secretary of the Commonwealth; lobbyist disclosure. Redesigns the Lobbyist's Disclosure Statement to clarify information requested and increase compliance. Among other things, the redesigned form (i) requires a lobbyist to include a list of all House of Delegates or Senate bills and procurement transactions for which he has lobbied as well as the expenses related to such lobbying activity and (ii) changes the manner in which entertainment and gift expenses are reported. The bill also provides that a lobbyist who files the statement electronically is not required to provide a paper copy. In addition, the bill provides that the Secretary of the Commonwealth shall review the lobbyist disclosure statements for completeness and accuracy and if a statement is not properly completed, the entire filing will be rejected and returned to the lobbyist. The lobbyist must submit a revised statement within 30

days from receipt of the returned statement. *Status: Assigned to Senate Subcommittee on Rules.*

The following pieces of legislation will no longer be considered during the 2010 General Assembly (for the reasons indicated):

HB 261. Low-profit limited liability companies. Provides for the designation of a type of limited liability company as low-profit limited liability company. A low-profit limited liability company is a limited liability company that significantly furthers the accomplishment of a charitable or educational purpose, would not have been formed but for the entity's relationship to the accomplishment of charitable or educational purposes, does not have as a significant purpose the production of income or the appreciation of property, and does not have a political or legislative purpose. *Status: Continued to 2011 in House Commerce and Labor Committee.*

SB 419. Virginia Property Owners' Association Act; control of association by declarant. Provides that a declaration may provide for declarant control of an association and its board of directors until (i) three months after 80 percent of all lots that the declarant has reserved the right to develop in all phases of development have been conveyed to a person other than a declarant or builder and (ii) the number of lots not yet developed is less than 200. The bill also provides that the declarant has the right to develop all additional lots in accordance with provisions in effect at the time of transfer of control and gives the declarant a seat on the board of the association until such time as all lots have been conveyed to a person other than a declarant or a builder. *Status: Continued to 2011 in Senate Committee on General Laws and Technology.*

HB 134. Outdoor advertising. Provides that 501(c)(3) sponsorships that can be seen from highways are not to be deemed "advertising." *Status: Failed in House Subcommittee on Transportation*

SB 326 (Companion Bill HB 928 survives in the House). Virginia Universities Clean Energy Development and Economic Stimulus Foundation. Creates the Virginia Universities Clean Energy Development and Economic Stimulus Foundation as a body corporate and a political subdivision of the Commonwealth. The Foundation shall identify, obtain, disburse, and administer funding for (i) research and development of alternative fuels, clean energy production, and related technologies; (ii) support of economic development projects in disadvantaged rural areas; and (iii) the provision of assistance in the commercialization of alternative fuels and clean energy technologies. Funding shall be awarded only to those proposed projects that best meet the established criteria and purposes of this act. *Status: Stricken at the request of its patron.*