



*2004-2009: Celebrating 5 Years of Service to Those Who Serve*

## ***VANNO Legislative Wrap Up***

Greetings Virginia Nonprofits!

The Virginia General Assembly adjourned its 2009 session on Saturday, February 28, with the reconvened session occurring on April 8 to address the Governor's amendments and vetoes on legislation.

Each year nearly 3000 bills are introduced to the General Assembly, but most do not pass. This year was no different. VANNO tracked two dozen pieces of legislation affecting the nonprofit community, but only 10 passed both houses and were affirmed by the Governor. These bills will go into law on July 1, 2009.

The bills VANNO tracked this session demonstrated the broad scope of Virginia's nonprofit community, with legislation addressing nonprofit daycare centers, first responders, organ donation, charity care in hospitals and the tobacco settlement.

However, some legislation will affect most nonprofits, including expanding the sales-tax exemption for nonprofit organizations. Bills monitored on unsolicited e-mail (spam) and changes to charitable gaming regulations did not pass this session.

Below is a brief summary of the status of all the bills that VANNO was tracking this session. If legislation was ultimately passed, the bills will go into effect on July 1, 2009.

You may still also find out who your Senator and Delegate is and contact your legislators directly to thank them for taking action on the bills you care about at the [General Assembly website](#), or contact Governor Tim Kaine at [www.governor.virginia.gov](http://www.governor.virginia.gov).

With best wishes,

Deborah Barfield Williamson  
Executive Director

## **APPROVED BY GOVERNOR AND WILL GO INTO LAW ON JULY 1, 2009**

### **HB1779 Sales and use tax; exemption of sales by nonprofit entities**

Provides that a nonprofit entity that is otherwise entitled to the occasional sale exemption shall be entitled to such exemption regardless of the number of times it makes sales throughout the year.

### **HB1983 Emergency response; liability**

Provides civil immunity for private and charitable organizations providing resources and assistance, without compensation, pursuant to a governor-declared emergency or during a formal emergency management training exercise, and at the request of the State Department of Emergency Management or a local emergency management employee. The immunity would not apply in instances of gross negligence, recklessness, or willful misconduct

### **HB2214 Pharmacies; bulk donation programs**

Provides that a pharmacy participating in bulk donation programs may charge a reasonable dispensing or administrative fee to offset the cost of dispensing donated medications, not to exceed the actual costs of such dispensing.

### **HB2330 Sales and use tax exemption; nonprofit schools**

Exempts any non-profit school that is accredited by an entity approved by the Department of Education and any school licensed by the Department of Education as a school for students with disabilities from the requirement to submit an audit to the Department of Taxation to obtain a sales and use tax exemption, if the school submits a federal 990 tax form.

### **HB2445 Stock and nonstock corporations**

Conforms provisions of the Stock and Nonstock Corporation Acts regarding names, mergers, and terminations with similar provisions applicable to other business entity forms, and makes technical amendments.

### **HB2458 Posting of charity care policies**

Requires all hospitals to post information related to charity care, including specific eligibility criteria and procedures for applying for charity care, on a website maintained by the hospital, and in public areas of the hospital.

### **SB969 Unlicensed child day centers; staff-to-child ratio**

Permits unlicensed day centers to reduce the number of staff per child by 50 percent during designated rest or sleep periods. The bill changes the staff-to-child ratio for unlicensed day centers to conform to that of licensed and regulated day centers during designated rest or sleep periods.

### **SB1026 Nonprofit corporation**

Authorizes the Foundation for Virginia's Natural Resources to establish a nonprofit, nonstock corporation to (i) foster collaboration and partnerships; (ii) raise money to finance projects providing environmental education, pollution prevention, and citizen monitoring; and (iii) promote the mission of the Foundation.

### **SB1112 Virginia Tobacco Settlement Foundation; name change**

Changes the name of the Virginia Tobacco Settlement Foundation to the Virginia Foundation for Healthy Youth and allows for moneys from the Virginia Tobacco Settlement Fund that are

obtained primarily from public grants and private funding sources to be used to reduce childhood obesity in the Commonwealth.

**SB1222 Sales and use tax exemption; nonprofit entities**

Provides that nonprofit entities with gross annual revenue of at least \$750,000 in the previous year must file a financial review performed by an independent certified public accountant in order to be eligible for a sales and use tax exemption. However, for those nonprofit entities with gross annual revenue of at least \$1 million in the previous year, the Department of Taxation may require that the entity provide a financial audit performed by an independent certified public accountant in lieu of the financial review.

**AMENDED BY GOVERNOR, AMENDMENTS ACCEPTED BY SENATE AND BILL WILL GO INTO LAW ON JULY 1, 2009**

**SB949 Organ donation; Virginia Donor Registry and Public Awareness Fund**

Changes the name of the Virginia Transplant Council Education Fund to the Virginia Donor Registry and Public Awareness Fund, and requires the Department of Motor Vehicles to establish a procedure for driver's license applicants to voluntarily contribute to the Fund. Also makes technical corrections to make certain sections consistent with the Revised Uniform Anatomical Gift Act.

**PASSED BOTH HOUSES BUT DID NOT REQUIRE GOVERNOR'S ACTION (RESOLUTION)**

**SJ337 Resolution; federal grant funding**

Encourages the Commonwealth to seek additional federal grant funding for Virginia, and the assistance of the Department of Planning and Budget in helping state and local entities maximize federal grant funding opportunities.

**BILLS KILLED OR NOT EXPECTING ADDITIONAL ACTION THIS SESSION**

**HB1702 Charitable gaming; use of proceeds**

Provides that the percentage, determined by the Charitable Gaming Board, which an organization must use for charitable purposes, is based on net receipts of the organization and not its gross receipts from charitable gaming.

**HB1711 Civil immunity for charitable food donations and distributions**

Provides that any charitable organization engaged in a food distribution program for needy persons shall be exempt from civil liability arising from any injury or death resulting from the nature, age, condition, or packaging of the distributed food.

**HB1796 Unsolicited bulk electronic mail (spam); penalty**

Creates a Class 1 misdemeanor when a person (1) uses a computer or computer network with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited commercial electronic mail

("spam") through or into the computer network of an electronic mail service provider or its subscribers; or (2) knowingly sells, gives, or otherwise distributes or possesses with the intent to sell, give, or distribute software that (i) is primarily designed or produced for the purpose of facilitating or enabling the falsification of the transmission information or other routing information of spam; (ii) has only limited commercially significant purpose or use other than to facilitate or enable the falsification of the transmission information or other routing information of spam; or (iii) is marketed by that person acting alone or with another for use in facilitating or enabling the falsification of the transmission information or other routing information of spam. A person is guilty of a Class 6 felony if, in addition to the elements of the Class 1 misdemeanor offense, the volume of spam transmitted exceeds a certain limit or the revenue generated exceeds a certain amount. This bill parallels the existing spam law but limits application to commercial electronic mail. Commercial electronic mail is defined in the bill as electronic mail, the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

**HB1883 Secretary of the Commonwealth; lobbyist disclosure**

Redesigns the Lobbyist Disclosure Statement to clarify information requested and increase compliance.

**HB2025 Charitable gaming; use of proceeds; audit fee**

Allows proceeds from charitable gaming to be used for those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real or personal property involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes. Currently, proceeds may be used only for real property. The bill also based the annual audit fee on net receipts and not gross receipts.

**HB2048 Child day programs; exemption from licensure**

Amends existing exemptions from licensure for child day programs.

**HB2053 Charitable gaming; prohibited acts; exceptions**

Provides that where a qualified organization that (i) is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code and (ii) owns the building or other premises utilized in whole or in part for the purpose of conducting bingo games, such organization may conduct more frequent operations of bingo games, not to exceed four calendar days in any calendar week. The bill also increases bingo prize amounts, allows nonmembers of an organization to operate bingo games provided they are under the direct supervision of a member, and limits to 50 the number of bingo games in a session.

**SB543 Sales and use tax exemption; nonprofit schools**

Exempts any non-profit school that is accredited by an entity approved by the Department of Education and any school licensed by the Department of Education as a school for students with disabilities from the requirement to submit an audit to the Department of Taxation to obtain a sales and use tax exemption, if the school files a federal 990 tax form with the Internal Revenue Service and provides a copy to the Department of Taxation.

**SB1055 Virginia Housing Partnership Revolving Trust Fund; dedicating revenues**

Establishes special, permanent, nonreverting fund to provide affordable housing in the Commonwealth.

**SB1092 Civil immunity for charitable food donations and distributions**

Provides that any charitable organization engaged in a food distribution program for needy persons shall be exempt from civil liability arising from any injury or death resulting from the nature, age, condition, or packaging of the distributed food.

**SB1121 Division of Charitable Gaming; conduct of fifty-fifty certain raffles**

Authorizes a qualified organization to conduct a raffle commonly referred to as a fifty-fifty raffle subject to certain limitations. The bill also provides that the proceeds from the from a fifty-fifty raffle shall not be included in determining the gross receipts for the qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

**SB1221 Tax credits for donations to nonprofit organizations providing educational funding**

Establishes a tax credit beginning in taxable year 2009 for businesses donating cash or personal property to nonprofit organizations providing funding (i) in the form of scholarships to students who would have been eligible for the free and reduced lunch program under federal law, but who attend nonpublic elementary or secondary schools, or (ii) in support of innovative educational programs in public schools. Nonprofit organizations to which donations are made would be required to contribute at least 90 percent of their annual receipts for such scholarships or innovative educational programs. The tax credit would equal 80 percent of the donation made by the business. No business would be issued more than \$80,000 in tax credit for donations made in a taxable year.