

2010 LEGISLATIVE SESSION MOVING TOWARD ADJOURNMENT

“State Budget Only Roadblock to Timely Adjournment”

After today, only eight (8) days remain in the 2010 session of the State Legislature. The 100 members of the House of Delegates and 40 State Senators are scheduled to adjourn on Saturday, March 13th. It appears the State Legislature will adjourn on the scheduled departure date from Richmond.

The only measures that appear as possible hurdles to an “on-time” adjournment are the Budget bills. The first Budget bill will make cuts and add little revenue for the remainder of the current 2-year Budget cycle that ends on June 30, 2009. The second Budget bill will forecast state revenues and expenditures for the 2-year Budget that will end on June 2012. As a result of a significant decline in State revenue in recent years, the State Legislature is facing a decision between major cuts in most State programs and services, including public education or raising state taxes or fees.

While tax increases have been taken off the table by Republican Governor Bob McDonnell and the House Republicans, the door seems to be open to some modest increase in so-called state user fees by the Governor and both House Republicans and Senate Democrats.

State Senate Democrats have conceded that tax increases are off the table and have recognized that the only way to balance the state Budget, as required by the Constitution of Virginia, is to cut State programs and services. That is easier said than done, as the House, the Senate and the governor have differing priorities within State government.

The House Budget Conferees are House Appropriations Committee Chairman Lacey Putney, I, Bedford; Kirk Cox, R, Colonial Heights; Beverly Sherwood, R, Frederick; Johnny Joannou, D, Portsmouth; Chris Jones, R, Suffolk; and Steve Landes, R, Augusta. Delegate Jones and Landes are new House Conferees.

The Senate Budget Conferees are Senate Majority Leader Dick Saslaw, D, Fairfax; Senate Finance Committee Chairman Chick Colgan, D, Prince William; Ed Houck, D, Spotsylvania; Janet Howell, D, Reston; Walter Stosch, R, Henrico; Tommy Norment, R, Williamsburg; and William Wampler, R, Bristol.

COURT FEES BILL STILL BREWING

Senate Bill 329, the bill that would create a massive increase in court fees in Virginia is still alive at this late date in the 2010 Session of the State Legislature. HBAV has joined a large coalition of business groups to fight a massive increase in court fees. The Patron of Senate Bill 329 is Senator Richard Stuart of Westmoreland. It would raise general district court fees from \$27 to \$75 and raise circuit court fees from \$60 to between \$110 and \$500 for circuit court cases involving less than \$1 million, and from \$160 to \$1,000 in cases seeking \$1 million or more. If passed, it would cost more to file a civil lawsuit in Virginia than any other state.

The measure would significantly increase the cost of doing business of the HBAV commercial property and multi-family owners seeking to exercise their legal rights with delinquent tenants.

The proponents of the measure are the Virginia Sheriffs, who see no other way to find money for Sheriffs to do their jobs. According to the Patron of SB 329, over 1,400 Virginia Sheriff deputies would lose their jobs because of state Budget cuts, if the fee increase is not passed. It passed the State Senate on a 23 to 17 vote with a packed gallery of uniformed Sheriffs in attendance.

SB 329 has now been assigned to the House Courts of Justice Committee. In any other year, such a massive fee increase bill, which would clearly limit access to the justice system in Virginia, would be DOA...Dead on Arrival! Not this year. Rather than a quick demise, the Senate-passed measure is being "HELD" by the House Committee, while the State Budget Conferees are wrestling with it in Conference. The State Senate also embedded the significant fee increases in their version of the State Budget.

Rest assured that HBAV and our business coalition partners are working "OVERTIME" to express our vehement opposition to the proposed fee increases to the House Conferees and the Senate Conferees, along with the House Courts of Justice Committee.

HBAV PACKAGE COMPLETES LEGISLATIVE JOURNEY

The last of the four bills in the 2010 HBAV Legislative Package finished its journey through the legislative process this week. All 4 bills will now go to new Virginia Governor Bob McDonnell for his consideration.

The 2010 HBAV Legislative Package was developed by the HBAV Legislative Committee, Chaired by Bill Garrett of Richmond. This is the second year Mr. Garrett, a past president of the HBA of Richmond, has guided the HBAV legislative agenda through the state legislature. All four bills made it through the legislative process in good shape. No significant amendments were made to the HBAV package of legislation.

Below is a brief summary of each legislative bill in the 2010 HBAV agenda.

VESTED RIGHTS - House Bill 1250, by Delegate Barry Knight of Virginia Beach has been approved by the House of Delegates and was approved by the Senate Committee on Local Government on Tuesday of this week. The bill passed the full 40-member State Senate on Monday,

despite a despicable editorial against the measure, which was published in the Roanoke Times on Monday morning. The newspaper misrepresented the intent and purpose of the legislation.

House Bill 1250 would add to the list of Significant Affirmative Governmental Acts (now seven in total) the issuance of any written order, requirement, decision or determination made by the zoning administrator or other administrative officer regarding the permissibility of a specific use or density of the landowner's property, after the appeals period, to the Act.

In many cases, prior to beginning improvements or construction on property in Virginia, lenders require and property owners obtain, a "Determination" from a Zoning Administrator to insure the intended use or density intended for the property is allowed by the underlying zoning classification. In most localities, such a "Determination" is a formal process. This measure will simply protect the property rights and add a layer of certainty for landowners who have acquired a Zoning Determination from a local government.

STORMWATER REGULATION SUSPENSION - House Bill 1220, by Delegate Tim Hugo of Fairfax County and Senate Bill 395 by Senator Frank Wagner have passed both houses of the state legislature this year. The companion bills would suspend the controversial Stormwater regulation of the Department of Conservation and Recreation (DCR) until 280 days after the completion of the Virginia Total Maximum Daily Loads (TMDL) Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL is approved by the United States Environmental Protection Agency, but no later than December 1, 2011.

HBAV announced earlier this Session that an HBAV-led coalition of business organizations and local governments had reached a tentative Agreement with the Chesapeake Bay Foundation, the James River Association and the Nature Conservancy on a measure to "Temporarily" suspend the Kaine Administration and DCR proposed Stormwater regulation which would have significantly increased the cost of land development in every part of Virginia, and will do very little to improve the water quality of the Chesapeake Bay.

The EPA-TMDL is forecast to be completed by December, 2010. That will give Virginia's Department of Conservation and Recreation nearly 12 months to adopt a new Stormwater regulation that will meet the allocations to be set out by the EPA-TMDL.

The passage of the legislation in both houses means the measures now go to Governor McDonnell for his consideration. Earlier this year, the new McDonnell Administration expressed support for the suspension of the Kaine-backed DCR regulation. HBAV will urge Governor McDonnell to sign the legislation into law. HB 1220 and SB 395 were the highest Legislative Priority of HBAV for the 2010 Session of the State legislature.

HBAV has consistently asserted that there was an attempt to rush the controversial Stormwater Regulation to the finish line by the Kaine Administration in their waning days, with their full knowledge that the current Stormwater Management Regulation, has brought Virginia very close to its current Phosphorous Goal, and the FACT, that the EPA is in the process of revising the current phosphorous loading limits for Virginia.

PROFFER PAYMENT DELAY – House Bill 374, by Delegate John Cosgrove and Senate Bill 632, by Senator Mark Obenshain have passed both houses of the State Legislature and now goes to Governor McDonnell for his consideration.

The measures would “temporarily” delay collection or acceptance of a per lot cash proffer by a locality, until after final inspection and before the residential property has been issued a certificate of occupancy by said locality.

SB 632 was approved by the House CC&T Committee last week and the full House of Delegates on Wednesday of this week. **HB 374** was approved by the Senate Committee on Local Government this Tuesday afternoon and the full Senate on Friday morning of this week.

Senate Bill 632 and House Bill 374 are designed to temporarily eliminate a major impediment to the recovery of the new housing industry in many markets. Such “UPFRONT” required cash payments to local governments, in the current building and banking environment, stifle job production by the housing industry. HBAV believes it is now appropriate to “temporarily” delay this costly upfront payment of cash proffers or impediment to the production of new housing in many areas of Virginia.

WATER AND SEWER DELINQUENT PAYMENT – House Bill 407, by Delegate Glenn Oder has passed the House of Delegates. As a component of the annual update of the Virginia Landlord Tenant Act, the measure provides that if the landlord has not received the final water, sewer or other utility bill for the dwelling unit within the 45 day period, the landlord may provide written notice to the tenant that a portion of the security deposit is being held pending settlement of the water, sewer or other utility account, after which settlement, the landlord shall refund any remaining balance within 10 days. The tenant may provide the landlord written confirmation of the final settlement of such charges within the 45 day period, in which case the landlord shall refund the security deposit unless other deductions shall apply.

Many localities or their Water and/or Sewer Authorities have the ability to place liens on property (owners) for delinquent water and sewer charges. That same authority applies to rental units. Meaning, many property owners are being required to pay the delinquent water and sewer bills for tenants that vacate their rental property. Often such bills are received long after an apartment or rental home is vacated and the delinquent charges can be substantial (\$\$).

HB 407 was approved by the Senate Committee on General Laws on Wednesday of this week and full Senate on Friday afternoon. It also now goes to Governor McDonnell for his consideration.

Stormwater Match - Moves on To Round Two

The much anticipated opening jabs for EPA’s Chesapeake Bay TMDL were thrown last Friday, February 26th. The TMDL, or Total Maximum Daily Load, is the linchpin in the debate over the Department of Conservation and Recreation’s stormwater regulation.

In October of last year, EPA announced that the pollutant allocations for Virginia would likely be increased, prompting the Soil and Water Conservation Board to abandon its .28 pounds of phosphorous per acre per year standard in favor of a less stringent standard. However, without final

data from EPA and the Virginia Implementation Plan for the TMDL, the HBAV Legislative Committee determined the most prudent course of action was to request legislation that suspended the new regulation until the Bay TMDL and Virginia Implementation Plan are complete.

As was explained earlier in this bulletin, that legislation (SB 395 and HB 1220) has passed both houses of the legislature unanimously with the support of most of the business community, the agricultural community, local governments, and the consent of the Chesapeake Bay Foundation. On Friday stakeholders convened in the Patrick Henry Building in Richmond to discuss the beginning stages of the Virginia Implementation Plan. The tone of the meeting was set by new Secretary of Natural Resources Doug Domenech. Mr. Domenech was appointed Secretary by new Virginia Governor Bob McDonnell just before the State Legislature convened in January. His comments were a complete departure from the position of his predecessor. Domenech noted that Virginia has long worked with the EPA to foster environmental stewardship in the Commonwealth, but recently EPA has been more interested in levying threats and mandating action rather than working cooperatively.

As the meeting progressed, each sector was able to voice their concerns over the approach to reaching our target pollutant levels. There is a common fear across industries that it is the intent of EPA to encourage competition between the sectors, where the ensuing rift between industries would allow for EPA to create unnecessarily harsh standards on each sector. However, the resulting conversation demonstrated that all industry sectors including construction, agriculture, manufacturing and wastewater treatment are determined to work together to protect Virginia's economy and environment.

Stay tuned for more on this issue important issue to HBAV members. The results will have a significant impact on the Virginia business/building climate for many decades to come. HBAV's Director of Regulatory Affairs will be the point man for HBAV on this high priority issue.

NAHB TO GATHER BAY STATE HBA'S FOR IMPORTANT BAY-EPA MEETING

HBAV President Mike Newsome will lead an HBAV delegation to Wilmington, Delaware on Wednesday, March 31st. Also joining President Newsome will be HBAV State Representative to NAHB John Stokely, Jr., and HBAV staff members Mike Toalson and Barrett Hardiman.

NAHB Leadership has called the HBAV leaders to Wilmington to meet with the other Chesapeake Bay State Leaders to help NAHB coordinate Congressional and EPA Regulatory efforts on the Chesapeake Bay Cleanup. The meeting was suggested at the Area 3 Caucus at IBS in January.

State HBA Leaders from NY, WV, DE, PA, MD and VA have been invited to attend the meeting to discuss the various proposals from EPA and Congress, and plans of action that are in place, as well as a new coordinated plan of action working together with the NAHB staff.

LIEUTENANT GOVERNOR BILL BOLLING TO ADDRESS HBAV SPRING BOARD MEETING

The Guest Speaker for the HBAV Board of Directors Meeting, scheduled for Thursday, March 25th in Richmond, will be Lieutenant Governor of Virginia, Bill Bolling. He was first elected to the office of Lieutenant Governor of Virginia in 2005. On November 3rd, 2009 the Lieutenant Governor was re-elected to a second four-year term. Prior to his election as Lieutenant Governor, Bill Bolling served 10 years in the State Senate. Prior to his service in the Senate, he served as Chairman of the Hanover County Board of Supervisors.

As you may remember, upon his swearing-in, Governor McDonnell appointed the Lieutenant Governor as the state's Chief Job-Creation Officer and made him a member of his cabinet. He is to be on the front lines of the state's effort to create jobs and economic opportunity. Many economists and supporters of the housing industry believe job growth will be the catalyst to an improving new housing market.

Following the remarks by Lieutenant Governor Bolling, the Board will receive the reports of the Treasurer, Independent Auditor, Local Presidents/Membership Improvement Task Force, Legislative Committee (including the results of the 2010 Session of the Virginia General Assembly), the Associates Committee and the State Representative's report. We will also get an update on the HBAV Support for the Haiti Orphanage by HBAV Past President Bob Flynn and we will also kickoff our 2010 HBAV Build-PAC campaign at this meeting of the HBAV Board of Directors. There will also be an important local update of each association's plans for the DIRECTDrive Membership Campaign.

All HBAV Board Members, including Local Presidents are strongly encouraged to attend the HBAV Spring Board Meeting.

HBAV FOR HAITI ORPHANS

“Much More Help Needed – Last Call for Help for the Girls”

For the past ten (10) years, HBAV Past President Bob Flynn of the Roanoke Regional Home Builders Association has used his annual personal vacation days to travel to Haiti to help make improvements to the “Quality of Life” for “The Home of the Daughters of God” Orphanage in Port-au-Prince. The orphanage provides food, clothing, shelter and education for 70 Haitian orphan girls.

On Wednesday, January 13th, Bob was due to fly into Haiti for a 7 day work-visit to the girl's orphanage/home. The earthquake hit on Tuesday, January 12th.

The orphanage is located in Port-au-Prince. It is a maze of connecting buildings, some as high as three stories. The orphanage was severely damaged during the quake, and is now uninhabitable. The 70 girls that use to call the orphanage home are now living in the street in front of the orphanage in tents donated to them by UNICEF. Three of the girls and the orphanage's cook's wife and his three children lost their lives on that Tuesday.

**HBAV PRESIDENT MIKE NEWSOME AND HBAV PAST PRESIDENT BOB FLYNN
URGE ALL HBAV MEMBERS TO MAKE A CONTRIBUTION TO THE ORPHANAGE**

AND THE GIRLS. PAST PRESIDENT FLYNN HAS ASSURED US THAT 100% OF ALL MONIES CONTRIBUTED WILL GO DIRECTLY TO THE ORPHANAGE!!!! As of this date, no decent food, water or medical supplies have reached the girls.

The surviving girls are in need now, more than ever!!! Please consider making a Donation. Every dollar will help the girls through this tragedy. Please contribute \$25.00, \$50.00, \$100.00 or more.

PLEASE MAKE YOU PERSONAL OR BUSINESS CHECK PAYABLE TO RESURRECTION CATHOLIC CHURCH, and mail it to HBAV, 707 East Franklin Street, Richmond, Virginia 23219. HBAV will bundle all Donations and deliver them directly to Past President Flynn in Roanoke. All contributions are 100% tax deductible.

Please send your personal or business contribution today. **As President Newsome said when approving this request, “Yes, this is about humanity”!!!!**

As of this writing, approximately \$5,000 has been contributed to the girl’s home by the members of HBAV. PLEASE CONSIDER SUPPORTING THE GIRLS. THEY NEED US!!!!