

LEGISLATIVE SESSION CLOSE NEARS

This has been another very busy week for the Virginia General Assembly. All 140 members of the State Legislature can feel Saturday, February 26th, the scheduled close of the 2011 edition of the annual gathering of state legislators, in there every move.

Standing Committees and Subcommittees of both houses began meeting early every day this week, and the daily sessions for the House of Delegates and State Senate went into the evenings. House and Senate negotiators on the State Budget worked later into the night in their efforts to reconcile their many differences in their priorities for state resources.

The Governor's Transportation Funding Plan has passed both houses, but in very different forms. As requested by Governor McDonnell, the House Bill will dedicate nearly \$4 billion in new funds for 900 transportation projects over the next 3 years, while the State Senate's passed plan is limited to approximately \$3 billion in new funding for transportation. For the most part, the State Senate has stripped out most of the General Fund dollars the governor and House has dedicated to transportation. A Conference Committee of the House and Senate will work out the differences in the bills before adjournment in this election year for both.

The consideration of the redrawing of House and Senate District boundaries, which is required in conjunction with each 10-year census, will be delayed until around the 2011 Veto Session, scheduled for April 6th.

The House of Delegates and State Senate now have only 1 week to consider all of the legislation sent their way by the opposite body. You can continue to follow all of the LEGISLATIVE ACTION that will affect the housing climate in the weekly HBAV Legislative Bulletins or at hbav.com.

SENATE TRAFFIC IMPACT STATEMENT CHANGE PASSES HOUSE **“Secondary Street & Additional TIS Changes up Next”**

On Thursday of this week, the Virginia House of Delegates passed **Senate Bill 1206** on a vote of 95 to 3. The measure will delete from the Code of Virginia the requirement for a VDOT Traffic Impact Statement for all by-right development. The Patron of **SB 1206** is Senator Mark Obenshain of Harrisonburg. The measure also directs the Department of Transportation to eliminate all related TIS regulations for by-right development by December 31, 2011. **SB 1206** now goes to Governor McDonnell for his consideration and hopeful signature.

Senate Bill 1462, by Senator Phil Puckett, will be considered later this afternoon by the House of Delegates. The measure will require the Commonwealth Transportation Board to review and consider

appropriate revisions to the VDOT Traffic Impact Statement (TIS) Regulations and to review and consider appropriate revisions to the VDOT requirements for Secondary Streets to be accepted in the state system. **SB 1462** was approved by the 22-member House Committee on Transportation on Tuesday afternoon of this week.

The final passage of **Senate Bill 1206** and **Senate Bill 1462** may significantly improve the efficiency of orderly development in Virginia. HBAV has dedicated significant resources (time and energy) this year to the revisions to the Kaine Administration enacted interference (regulations) to efficient transportation planning and construction in Virginia.

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HBAV-BACKED LEGISLATION MOVES TOWARD PASSAGE

All of the 2011 HBAV Legislative Agenda moved toward final passage this week in the Capitol City. The pro-housing/pro-business agenda was developed by the HBAV Legislative Committee, chaired by TBA member John Napolitano. Each of the 16 HBAV affiliated local associations is represented on the committee, which meets once during every week the state legislature is in session. The Committee also provides policy guidance to the HBAV lobbying team on all matters before state lawmakers.

Following is a brief summary and status report of each HBAV priority for the 2011 Session of the Virginia General Assembly.

Senate Bill 1204, by Senator Mark Obenshain of Harrisonburg will allow a court to award reasonable attorney fees, expenses and court costs to any person, group or entity that successfully prevails in an action challenging an ordinance, resolution, motion, administrative or other action as being in conflict with the 2010 legislation enacted by the General Assembly at the urging of HBAV. The 2010 legislation “Temporarily” required the delay of the payment of per lot cash proffers from prior to the issuance of a Building Permit or earlier, until after the final inspection by local building officials and before the issuance of a Certificate of Occupancy by the local government. Five large localities in Virginia with significant per lot cash proffer demands have refused to issue Building Permits to builders, until the lot owner agreed to pay the cash proffer, despite a September “Opinion” by Virginia Attorney General Ken Cuccinelli that the Act did apply to per lot cash proffers formed prior to the effective date of the 2010 legislation. **Senate Bill 1204** would also extend the period of validity of the 2010 legislation for a period of 1 year, or until July 1, 2015.

Senate Bill 1204 was amended and approved by a vote of 18 to 3 by the House Counties, Cities and Towns Committee last Friday. The Committee Amendment modified the legislation by changing - “shall” award attorney fees to “may” award attorney fees - should a builder or person successfully prevail in a legal action challenging a locality’s refusal to allow per lot cash proffers to be paid after final inspection and before the issuance of a building permit. Prior to the passage of the 2010 legislation, most localities required per lot cash proffers to be paid prior to the issuance of a building permit.

Senate Bill 1204 was approved by the House of Delegates on Tuesday of this week on a vote of 79 to 18. The measure now goes to the governor for his consideration and hopeful signature.

Senate Bill 1412, by Senator Steve Martin of Chesterfield County would add 3 new members to the Virginia Soil and Water Conservation Board that can fairly represent business or local government interests, through education, training or experience, and would remove the DCR Director as a voting member of the Board. The Director and Secretary of Natural Resources have approved the proposed legislation. The size of the Board would increase from 10 members to 12 members.

Currently the Board is composed of the DCR Director, 2 at-large members that have a demonstrated interest in natural resource conservation and water quality protection, 4 farmers, 2 representatives of the Virginia Association of Soil and Water Conservation Districts and 1 additional at-large member.

Senate Bill 1412 was approved by the House of Delegates on Friday of last week and now goes to the governor for his consideration and hopeful signature.

House Bill 1829, by Delegate Ed Scott of Culpeper, the identical House Bill to **SB 1412**, passed the State Senate on Wednesday of this week and also goes to Governor McDonnell for the same review.

House Bill 2411, by Delegate Scott Lingamfelter of Prince William County would provide flexibility to local governments to enact a bonding moratorium or deferral option on extended, but inactive development plans. The legislation would also require the landowner or developer to comply with the terms of any bonding moratorium or deferral agreement for the period of the plan validity extension.

Several localities have now expressed a willingness to waive the performance bonds and other financial guarantees on the extended projects through the local enactment of a bonding moratorium or deferral option. UNFORTUNATELY, THE 2009 LEGISLATION DOES NOT PROVIDE THE FLEXIBILITY TO LOCAL GOVERNMENTS TO WAIVE THE BONDS AND OTHER FINANCIAL GUARANTEES ON THE EXTENDED PROJECTS.

House Bill 2411 was approved by the Senate Committee on Local Government on Tuesday afternoon of this week and will be considered by the full 40-member State Senate later this afternoon.

House Bill 1844, by Delegate Clay Athey of Front Royal would require a locality to give notice to the owner of property within 10 days when a party, other than the owner, requests that the zoning administrator or any other administrative officer provide a written order, requirement, decision or

determination that would bind the owner of the property.

Recently, non-owners of property and in some cases, competitors of property owners have sought binding determinations from zoning administrators that limit the property rights of the owner. Currently, there is not a requirement for property owners to be provided such a notice when their property is the subject of such a determination by another.

House Bill 1844 was approved by the Senate Committee on Local Government on Tuesday afternoon of this week and will be considered by the full 40-member State Senate later this afternoon.

House Bill 2472, by Delegate Charles Poindexter of Franklin County will clarify that the terms, conditions and specifications contained in any agreement, contract, performance agreement or similar document, to be limited to those items depicted or provided for in the approved plan, plat, permit application or similar document for which such performance guarantee is applicable.

HB 2472 was approved by the Senate Committee on Local Government on Tuesday afternoon of this week and will be considered by the full 40-member State Senate later this afternoon.

PHOSPHOROUS BAN SET FOR FINAL PASSAGE

The compromise legislation which would prohibit the inclusion of phosphorus in lawn maintenance fertilizers in Virginia beginning on December 31, 2013, has gone to Governor Bob McDonnell this week for his review and hopeful signature. The measure had the strong backing of HBAV.

The Senate legislation is Senate Bill 1055, by Senator Richard Stuart of Stafford County and the House Bill is HB 1831, by Delegate Ed Scott and Delegate Lee Ware.

Many Virginians, including business owners, farmers, and local officials, are facing the challenge of restoring their local urban streams as well as the Chesapeake Bay pursuant to the EPA-TMDL, or “pollution diet.” Runoff from urban and suburban turfgrass is a significant source of nutrient pollution from the Urban Sector of Virginia, and a prime cause of the Bay’s decline. As a result, Senate Bill 1055 and House Bill 1831 are a simple, common sense solution to reducing pollution from urban and suburban lands that can save taxpayers and business owners money and ease compliance with the EPA-TMDL by private landowners, local governments, and the Commonwealth of Virginia.

Turfgrass, including lawns, golf courses, recreational fields, parks, and road medians, is now the largest crop grown in the Bay watershed. EPA estimates that “pervious urban” lands (which are mostly turfgrass) generate roughly 6 percent of Virginia’s phosphorus pollution discharged to the Chesapeake Bay. Fertilizers with phosphorus are not necessary for established lawns. **Once effective in 2013, the measure could reduce phosphorus pollution running off into the Chesapeake Bay from Virginia by up to 375,000 pounds per year, or nearly 40 percent of Virginia’s phosphorus reduction goal for 2017. That could save localities millions of dollars by reducing their need to install expensive stormwater runoff treatment systems.**

Both measures would allow for the distribution of specialty fertilizers in Virginia that include phosphorous. Specialty fertilizers are defined as products for starter lawns, gardening, trees, shrubs and indoor plants. The measures also prohibit the sale of de-icers that contain fertilizer.

Senate Bill 1055 is scheduled to be considered by the House of Delegates later today, and **House Bill 1831** was approved by the State Senate on Wednesday of this week.

HBAV BILL MATRIX AVAILABLE AT HBAV.COM

The HBAV Legislative Committee and lobbying team is currently tracking over 100 bills and resolutions that could impact the housing climate in Virginia. In many cases HBAV is supporting favorable legislation and with other legislation, HBAV is urging the state legislature to set aside proposed legislation. HBAV also encourages state legislators to amend state legislation to make it less onerous to home building or better for our business. The complete 2011 HBAV Matrix of Legislation is available for your review at hbav.com.