

**Virginia Code Commission
Meeting Materials
October 18, 2021**

VIRGINIA CODE COMMISSION

Monday, September 20, 2021 - 10:00 a.m.

Senate Room 3- The Capitol

DRAFT

Meeting Minutes

Members Present in Person: John S. Edwards; Marcus B. Simon; Nicole S. Cheuk; Leslie L. Lilley; Jennifer L. McClellan; Christopher R. Nolen; Samuel T. Towell; Malfourd W. Trumbo; Amigo Wade.

Members Present Electronically: John S. Edwards; Don L. Scott, Jr.

Members Absent: Ward L. Armstrong; Charles S. Sharp

Staff Present: Sarah Stanton, Marvi Ali, Tom Stevens, Kristen Walsh, Brittany Olwine, Anna Moir, Ashley Binns, Taylor Mey, Sabrina Miller-Bryson, Charles Quagliato, Julia Carlton, Ryan Brimmer, Anne Bloomsburg, Nikki Clemons, Karen Perrine, Holly Trice, Stephanie Kerns, Andrew Kubincanek, Division of Legislative Services (DLS); Maryann Horch, Senate Technology

Others Present: Tom Lisk, Chair, Administrative Law Advisory Committee

Call to order: Senator Edwards, chair, called the meeting to order at 10:07 a.m. Pursuant to § 2.2-3708.2, the meeting was held electronically. A quorum of the Commission was present. Senator Edwards presided over the meeting virtually.

Approval of minutes: The minutes of the May 17, 2021, meeting of the Commission, as distributed to the members, were approved.

Administrative Law Advisory Committee (ALAC) workplan and report: Tom Lisk shared the three items on the 2021 ALAC work plan. The first item was to study requested legislation related to electronic records of final orders. The second item was to discuss recommendations on ensuring the efficiency and effectiveness of the executive review process. ALAC plans to search for ways to improve the regulatory process to shorten the average time period it takes for an agency to promulgate regulations. The third item was to form a workgroup to work with the Supreme Court and update the Hearing Officer Deskbook with any legislative changes since the Deskbook was last updated. The committee will give the Code Commission a report from the workgroup during the November Code Commission meeting.

Judge Lilley asked why regulations take 22 months on average to become effective under the current promulgating process. Mr. Lisk stated the biggest causes of delay are in the executive review process, with many final regulations waiting for executive review for over a year. Mr. Lisk acknowledged these regulations with longer wait times may be of lower priority, but stated the length of the process leads many interest groups to go to legislators rather than state agencies for changes to be instilled.

There was a motion made to approve the ALAC 2021 workplan. The motion was properly seconded and the motion passed unanimously.

Not-set out laws review:

Title 63.2 (Welfare (Social Services)) - Sarah Stanton presented two sections from Title 63.2. The first section, § 63.2-1400, was not set out and staff recommended it to be repealed by way of a bill as the section does not create substantive law. There was a motion made to approve repealing the section by way of bill. The motion was properly seconded and the motion passed unanimously. The second

section in Title 63.2 for review was § 63.2-1500. Ms. Stanton recommended this section be repealed by way of a bill, as the section has no substantive law and the policy that the section would have set out regarding the Commonwealth receiving investigation reports on abuse and neglect is established in Chapter 15. There was a motion made to approve repealing the section by way of bill. The motion was properly seconded and the motion passed unanimously.

Title 13.1 (Corporations) - Tom Stevens and Marvi Ali presented sections in Title 13.1 that were not set out. Section 13.1-312 was recommended to be set out as amended in the meeting materials. The section contains substantive law, and Ms. Ali recommended the section be revised to read as a "public interest" introductory statement rather than legislative intent and policy, as it currently reads. There was a motion made to approve the recommendations. The motion was properly seconded and the motion passed unanimously.

Section 13.1-542 was recommended for repeal, as the section does not create substantive law. Mr. Towell asked a procedural question about whether all the bills related to Title 13.1 could be incorporated with the bills to repeal the sections presented from Title 63.2 or if each title's bills would have to be promulgated separately. Karen Perrine responded that each title would have to be amended in separate bills because the bills will be going to different committees for review. There was a motion made to approve the recommendations. The motion was properly seconded and the motion passed unanimously.

Title 56 (Public Service Companies) - Section 56-509 was recommended to be set out as amended in the meeting materials. The section contains aspects of substantive law, such as identifying which utility services are considered essential. Amendments included changing "state" or "Virginia" to "Commonwealth" and updating the catchline. Senator McClellan asked if the amendments were meant to be substantive. One of the recommended changes was changing "people of Virginia" to "resident," which Senator McClellan pointed out would change whether businesses were included and the intent behind what kind of services are provided. Senator McClellan suggested the amendments use the term "customers" rather than "residents" as the term "customers" would have the same meaning as "people."

Delegate Scott asked if bills would be assigned to Commission members before the next legislative session. Senator Edwards stated they would be.

Senator McClellan suggested the Commission keep the term "people of Virginia," for the time being and sort it out with the Division of Legislative Services later. Mr. Nolen asked to abstain from the vote as he works for a corporation that represents a number of utility companies. Mr. Towell asked to abstain for the same reason. Senator McClellan disclosed that she works for a communication company, but as the amendments in the section would affect all companies rather than a certain industry she would be participating in the vote.

Mr. Trumbo made a motion to approve the recommendations as amended, except for the suggested amendment language change of "people of Virginia" which Mr. Trumbo moved to keep as is. The motion was properly seconded and the motion passed, with Mr. Nolen and Mr. Towell abstaining from the vote.

Section 56-537 was recommended to be set out as the section contains substantive elements such as articulating that encouraging construction is in the public interest and that the use of public funds is

appropriate for implementing the chapter. There was a motion made to approve the recommendations as amended. The motion was properly seconded and the motion passed unanimously.

Obsolete laws review:

Title 12.1 (State Corporation Commission) - Tom Stevens and Marvi Ali presented the obsolete law review for Title 12.1 and stated there were no obsolete laws found in the title. There were also no cross references to be updated, so the recommendation was the title be left alone.

Title 34 (Homestead and Other Exemptions) - Kristen Walsh and Brittany Olwine presented the obsolete law review for Title 34. There were no obsolete sections found and so no changes were recommended.

Title 37.2 (Behavioral Health and Developmental Services) - Anna Moir and Sarah Stanton reviewed Title 37.2. Section 37.2-315 was found to be obsolete. The section was added in 1998 as the Department of Behavioral Health and Developmental Services biennially produced and updated a comprehensive six-year plan. Since 1998, other reporting requirements have rendered the section obsolete. Sections 37.2-308, 37.2-504, and 37.2-605 were recommended for amendment to update the cross-references to § 37.2-315. Mr. Towell recognized the information in the section could be duplicative but shared concerns that the changes to the section did not fall under the obsolete law review. Ms. Perrine shared that historically the Commission's obsolete law reviews encompassed recommendations like this and the Commission could make the amendments if adopted.

Mr. Trumbo asked if repealing the section would still cover the required reporting requirements. Ms. Stanton said that the Department of Behavioral Health and Developmental Services said that the information in the report addressed in § 37.2-315 was covered by other reports mandated in other sections. Mr. Trumbo asked if it was accurate to say that the repeal of the section would enhance the other sections of Code that covered reports and repealing the section alleviate confusion on reporting requirements. Ms. Stanton said yes, and that repealing this section would free staff resources and time as it would lessen the number of required reports while still getting in depth information from the remaining reports.

Senator Edwards asked if the Department of Behavioral Health and Developmental Services recommended the section be repealed and Ms. Stanton said yes. There was a motion made that the recommendations be accepted. The motion was properly seconded and the motion passed unanimously.

Title 42.1 (Libraries) - Ashley Binns reported on Title 42.1. Ms. Binns addressed Article 4 of Chapter 1 in Title 42.1 and stated that all the sections in the article had not been amended since 1998. The article addressed historical material relating to World War II and all of the historical material discussed in the article has been transferred to the Library of Virginia, and is accessible to the public. Because all the duties and documents referenced in this section have been moved, and the Virginia World War II History Commission has been abolished, the article was recommended for repeal. There was a motion made to approve the recommendation to repeal the article. The motion was properly seconded and the motion passed unanimously.

Ms. Binns reported on Article 5 of Chapter 1, which was recommended for repeal. Ms. Binns explained that the sections in the article were first created when library automation was just beginning in 1983. The state was never able to procure funding for a library and information network, and since

then technology has evolved and libraries have developed local and regional solutions to connect libraries via the Internet; therefore, the article is obsolete. Mr. Trumbo asked if repealing the article would preclude the General Assembly from trying to establish an information system like intended in the article by other means. Ms. Binns stated it would not; it would just repeal the system proposed in 1983 that is no longer viable. There was a motion made to approve the recommendation. The motion was properly seconded and the motion passed unanimously.

Chapter 2 of Title 42.1 was also recommended for amendment. Section 42.1-36.1 was recommended for amendment to fix cross references for definitions that were moved to other sections. Section 42.1-43 was recommended for amendment to update cross references. There was a motion made to approve the recommendations. The motion was properly seconded and the motion passed unanimously.

Section 42.1-60 was recommended for amendment as it referenced a law library in Staunton County that has not existed since 1971. The amendments would remove the references to this library branch. Section 42.1-61, which has not been amended since 1970, was recommended for amendment to remove references to the same library branch, as well as to amend the definition of "books" to align with other definitions used by the Library of Virginia. Section 42.1-63 was recommended for amendment as it referenced use of computer research services that are not currently offered by local libraries, including subscriptions to LexisNexis or West Law for public use. Section 42.1-65 was recommended for amendment as it also references computer research services that were never put in place. Section 42.1-70 was recommended for amendment as the last sentence in the section references computer research services referenced in § 42.1-65 that are recommended for removal.

Mr. Trumbo abstained from the vote as he was previously a chief justice in Staunton County. There was a motion made to approve the recommendations. The motion was properly seconded and the motion passed, with Mr. Trumbo abstaining.

Section 42.1-77 was recommended for amendment as it had definitions that were not used elsewhere in the Code. Those unused definitions were recommended for removal. Ms. Binns suggested the definition of "private record" in this section be integrated into the definition of "public record" to give clarity as to what qualifies as a public record and what does not. Ms. Cheuk noted that the meeting materials said that "archival record" was recommended to be removed, but that the term was used in the definition of "archives." Ms. Binns clarified that the draft bill in the meeting materials was incorrect and the term "archival quality" would be removed in the amendment, not "archival record." There was a motion made to approve the recommendations. The motion was properly seconded and the motion passed unanimously.

Ms. Binns addressed the possibility of amending the term "book," with an option for amendment to be changing the term "book" where it appears to "collections," as "collections" may mean books, magazines, newspapers, other printed matter, digital subscriptions, and databases. The other option for amendment would be to leave the terminology as is, but broaden the definition of "book" to include the same items encompassed by "collections."

Mr. Nolen asked if that type of amendment is one that would normally be made in the course of a recodification. Mr. Wade said yes, but recommended the amendment be carried as a separate bill from the other Title 42.1 amendments. There was a motion made to pass by the issue of amending the term "books." The motion was properly seconded and the motion passed unanimously.

Title 52. Police (State) - Sabrina Miller-Bryson, Taylor Mey, and Charles Quagliato reviewed Title 52. Chapter 2 was recommended for amendment. The amendments strike references to private line typewriters and teletype communication systems no longer used by Virginia State Police, and include various technical changes. Judge Lilley asked if the term "electronic communication" was defined, and Ms. Miller-Bryson said it was not currently defined in the title. Judge Lilley asked that a definition be added. Mr. Wade asked if the Virginia State Police reviewed the recommendations presented, and Ms. Miller-Bryson stated the department did and agreed with the recommendations. It was agreed that title 52 would be revisited at the October meeting, once a definition of "electronic record" was added.

Mr. Towell asked about language that was being stricken in § 52-20 regarding "an allegation that [...] person is likely to flee the jurisdiction of the Commonwealth," stating concerns that striking that requirement would change the way the department enforces the section. Charles Quagliato stated the language only refers to communication, rather than enforceable practices. The Commission agreed to push the matter to the October meeting to give staff time to research whether removing the language would have unforeseen effects.

Obsolete laws and Not Set Out reviews of Title 22.1 (Education): Julia Carlton and Ryan Brimmer presented on the obsolete laws and Not Set Out reviews in Title 22.1. Section 22.1-57:3:1.2 was recommended to be set out as the section is cross-referenced in two other Code sections. There was a motion made that § 22.1-57:3:1.2 be set out, and the motion passed unanimously. The Commission decided to approve all of the recommendations for not set out sections. There was a motion made to approve the recommendations for not set out sections in Title 22.1. The motion was properly seconded and the motion passed unanimously.

Mr. Towell asked that the Commission consider not voting on the presented obsolete laws as the amended text of the bills was not included in the meeting materials. The Commission agreed and the matter would be moved to the October or November Code Commission meetings.

Other business:

- Judge Lilley asked if LexisNexis published a paperback, updated version of the Criminal Code that would be available. Brian Kennedy stated there was a stand-alone Criminal Code with all of the 2021 updates available.

- Mr. Wade shared that Ms. Perrine would be retiring from the Division of Legislative Services in October, and that Holly Trice would be the new Registrar of Regulations. There was a motion made to commend Karen for her hard work and expertise over the years, and the motion passed unanimously.

Public comment, adjournment: Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 11:53 a.m.

Next meeting: Monday, October 18, 2021, at 10:00 a.m.

VIRGINIA CODE ANNOTATED

	2022 PRICES				2021 PRICES			
	STATE (6 Replacement Volumes)	PRIVATE	STATE (5 Replacement Volumes)	PRIVATE	STATE (4 Replacement Volumes)	PRIVATE	STATE (5 Replacement Volumes)	PRIVATE
SUPPLEMENT	\$221.00	\$285.50	\$231.50	\$301.25	\$254.00	\$338.50	\$231.50	\$301.25
INDEX	\$112.00	\$118.50	\$112.00	\$118.50	\$112.00	\$118.50	\$112.00	\$118.50
VOLUMES (EACH)	\$60.25	\$75.00	\$60.25	\$75.00	\$60.25	\$75.00	\$60.25	\$75.00
VOLUME 11	\$45.75	\$60.25	\$45.75	\$60.25	\$45.75	\$60.25	\$45.75	\$60.25
VOLUME 11 SUPP	\$15.50	\$15.50	\$15.50	\$15.50	\$15.50	\$15.50	\$15.50	\$15.50
ADVANCE CODE		\$91.00		\$91.00		\$91.00		\$91.00
SERVICE								
TOTAL	\$755.75	\$1,020.75	\$706.00	\$961.50	\$668.25	\$923.75	\$636.20	\$879.20

(STATE GOVERNMENT PRICING FOR PURCHASES OUTSIDE OF THE CODE COMMISSION PURCHASE)

PPI increase is 5% since August 2020. The proposed price increase above reflects a 5% increase.

Vol	Title	Subject	Edition	BV pp*	21 CS	%	Lexis*	Replacement Candidates						
1	1-2.2	Gen. Prov., Adm. of Govt.	2017	1187	544	45.8%	1347	Stand alone						
1A	3.2	Agriculture	2016	550	128	23.3%	597							
1B	4.1-6.2	Alcoholic Bev. -- Financial Institutions	2021	999		0.0%								
2	8.01	Civil Remedies & Procedure	2015	1386	313	22.6%	1590							
2A	8.1-8.11	UCC	2015	1029	27	2.6%	1033							
2B	9-10.1	Commissions -- Conservation	2018	690	214	31.0%	766							
3	11-14.1	Contracts to Corporations	2021	771		0.0%								
3A Part 1	15.2 Part 1	Counties, Cities, and Towns	2018	916	215	23.5%	992							
3A Part 2	15.2 Part 2	Counties, Cities, and Towns	2018	511	112	21.9%	549							
3B	16.1-17.1	Courts	2020	775	150	19.4%	823							
4	18.2	Crimes	2021	1197		0.0%								
4A	19.2	Criminal Procedure	2015	796	387	48.6%	945	stand alone						
4B	20, 21	Domestic Relations, Drainage	2016	722	168	23.3%	795							
5	22.1, 23	Education -- Eminent Domain	2021	780		0.0%								
5A	24.2-28.2	Elections - Fiduciaries	2016	737	282	38.3%	830							
5B	29.1-32.1	Wildlife to Health	2018	939	310	33.0%	1027	Recod of Title 32.1 was supposed to be 2022 but now scheduled for 2023						
6	33.2-37.2	Highways -- Mental Health	2019	1005	246	24.5%	1091							
6A	38.2	Insurance	2020	1345	56	4.2%	1325							
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2021	655		0.0%								
7	46.2	Motor Vehicles	2017	1177	374	31.8%	1242	stand alone						
7A	47.1 - 53.1	Notaries to Prisons	2020	815	81	9.9%	814							
7B	54.1	Professions	2019	842	232	27.6%	924							
8	55.1-57	Property -- Religious & Charitable Matters	2019	1286	359	27.9%	1465	stand alone						
8A	58.1	Taxation	2017	1231	550	44.7%	1447	stand alone						
9	59.1-62.1	Trade -- Waters	2019	1303	223	17.1%	1392							
9A	63.2-64.2	Welfare -- Wills Trusts & Estates	2017	911	241	26.5%	958							
9B	65.2-67	Workers' Compensation -- Energy	2017	784	117	14.9%	838							
10		Tables	2015	691	95	13.7%	766							
11		Rules	2017	n/a	n/a	n/a								
12		Index	2017	n/a	n/a	n/a								
13		Index	2017	n/a	n/a	n/a								
Const.		Consts.	2020	385		0.0%								
LEO1		LEO/UPL	2002	631	66	10.5%	643							
LEO2		LEO/UPL	2013	955	143	15.0%	1017							

Vol	Title	Subject	Edition	BV pp*	15 CS	%	Lexis*
LEO1		LEO/UPL	2002	631	58	9.2%	
1A	3.2	Agriculture	2008	432	171	39.6%	550
4B	20, 21	Domestic Relations, Drainage	2008	548	203	37.0%	715
Const.		Consts.	2008	296	73	24.7%	
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010	685	202	29.5%	747
3B	16.1-17.1	Courts	2010	624	260	41.7%	711
Compacts		Compacts	2010	514	121	23.5%	
3	11-14.1	Contracts to Corporations	2011	643	192	29.9%	683
5	22.1, 23	Education -- Eminent Domain	2011	785	288	36.7%	829
5A	24.2-28.2	Elections - Fiduciaries	2011	791	277	35.0%	747
11		Rules	2011	n/a	n/a	n/a	
12		Index	2011	n/a	n/a	n/a	
13		Index	2011	n/a	n/a	n/a	
2B	9-10.1	Commissions -- Conservation	2012	680	98	14.4%	150
3A	15.2	Counties, Cities, and Towns	2012	1334	249	18.7%	1352
8	55-57	Property -- Religious & Charitable Matters	2012	1203	240	20.0%	1254
9A	63.2-67	Welfare -- Youth & Family Services	2012	1552	253	16.3%	1634
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013	655	89	13.6%	668
7A	47.1 - 53.1	Notaries to Prisons	2013	758	137	18.1%	777
7B	54.1	Professions	2013	698	178	25.5%	745
8A	58.1	Taxation	2013	1181	284	24.0%	1229
LEO2		LEO/UPL	2013	955	58	6.1%	
1	1-2.2	Gen. Prov., Adm. of Govt.	2014	1081	271	25.1%	1171
4	18.2	Crimes	2014	1197	103	8.6%	1227
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014	866	190	21.9%	932
6A	38.2	Insurance	2014	1231	81	6.6%	1218
7	46.2	Motor Vehicles	2014	1186	239	20.2%	1126
9	59.1-62.1	Trade -- Waters	2014	1172	80	6.8%	1180
2	8.01	Civil Remedies & Procedure	2015	1386		0.0%	
2A	8.1-8.11	UCC	2015	1029		0.0%	
4A	19.2	Criminal Procedure	2015	805		0.0%	
5B	29.1-32.1	Game to Health	2015	898		0.0%	
10		Tables	2015	691		0.0%	

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2B	9-10.1	Commissions -- Conservation	2012	680	98	14.4%	150
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010	685	202	29.5%	747
10		Tables	2015	691		0.0%	
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LEO2		LEO/UPL	2013	955	58	6.1%	
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9A	63.2-67	Welfare -- Youth & Family Services	2012	1552	253	16.3%	1634
11		Rules	2011	n/a	n/a	n/a	
12		Index	2011	n/a	n/a	n/a	
13		Index	2011	n/a	n/a	n/a	

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12		Index	2011	n/a	n/a	n/a	
13		Index	2011	n/a	n/a	n/a	
2	8.01	Civil Remedies & Procedure	2015	1386		0.0%	
2A	8.1-8.11	UCC	2015	1029		0.0%	
4A	19.2	Criminal Procedure	2015	805		0.0%	
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2A	8.1-8.11	UCC	2015	1029		0.0%	
4A	19.2	Criminal Procedure	2015	805		0.0%	
5B	29.1-32.1	Game to Health	2015	898		0.0%	
10		Tables	2015	691		0.0%	
LEO2		LEO/UPL	2013	955	58	6.1%	
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4	18.2	Crimes	2014	1197	103	8.6%	1227
LEO1		LEO/UPL	2002	631	58	9.2%	
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013	655	89	13.6%	668
2B	9-10.1	Commissions -- Conservation	2012	680	98	14.4%	150
9A	63.2-67	Welfare -- Youth & Family Services	2012	1552	253	16.3%	1634
7A	47.1 - 53.1	Notaries to Prisons	2013	758	137	18.1%	777
3A	15.2	Counties, Cities, and Towns	2012	1334	249	18.7%	1352
8	55-57	Property -- Religious & Charitable Matters	2012	1203	240	20.0%	1254
7	46.2	Motor Vehicles	2014	1186	239	20.2%	1126
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014	866	190	21.9%	932
Compacts		Compacts	2010	514	121	23.5%	
8A	58.1	Taxation	2013	1181	284	24.0%	1229
Const.		Consts.	2008	296	73	24.7%	
1	1-2.2	Gen. Prov., Adm. of Govt.	2014	1081	271	25.1%	1171
7B	54.1	Professions	2013	698	178	25.5%	745
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010	685	202	29.5%	747
3	11-14.1	Contracts to Corporations	2011	643	192	29.9%	683
5A	24.2-28.2	Elections - Fiduciaries	2011	791	277	35.0%	747
5	22.1, 23	Education -- Eminent Domain	2011	785	288	36.7%	829
4B	20, 21	Domestic Relations, Drainage	2008	548	203	37.0%	715
1A	3.2	Agriculture	2008	432	171	39.6%	550
3B	16.1-17.1	Courts	2010	624	260	41.7%	711
11		Rules	2011	n/a	n/a	n/a	
12		Index	2011	n/a	n/a	n/a	
13		Index	2011	n/a	n/a	n/a	

Vol	Title	Subject	Edition	BV pp*	15 CS	%	Lexis*
1	1-2.2	Gen. Prov., Adm. of Govt.	2014	1081	271	25.1%	1171
1A	3.2	Agriculture	2008	432	171	39.6%	550
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010	685	202	29.5%	747
2	8.01	Civil Remedies & Procedure	2015	1386		0.0%	
2A	8.1-8.11	UCC	2015	1029		0.0%	
2B	9-10.1	Commissions -- Conservation	2012	680	98	14.4%	150
3	11-14.1	Contracts to Corporations	2011	643	192	29.9%	683
3A	15.2	Counties, Cities, and Towns	2012	1334	249	18.7%	1352
3B	16.1-17.1	Courts	2010	624	260	41.7%	711
4	18.2	Crimes	2014	1197	103	8.6%	1227
4A	19.2	Criminal Procedure	2015	805		0.0%	
4B	20, 21	Domestic Relations, Drainage	2008	548	203	37.0%	715
5	22.1, 23	Education -- Eminent Domain	2011	785	288	36.7%	829
5A	24.2-28.2	Elections - Fiduciaries	2011	791	277	35.0%	747
5B	29.1-32.1	Game to Health	2015	898		0.0%	
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014	866	190	21.9%	932
6A	38.2	Insurance	2014	1231	81	6.6%	1218
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013	655	89	13.6%	668
7	46.2	Motor Vehicles	2014	1186	239	20.2%	1126
7A	47.1 - 53.1	Notaries to Prisons	2013	758	137	18.1%	777
7B	54.1	Professions	2013	698	178	25.5%	745
8	55-57	Property -- Religious & Charitable Matters	2012	1203	240	20.0%	1254
8A	58.1	Taxation	2013	1181	284	24.0%	1229
9	59.1-62.1	Trade -- Waters	2014	1172	80	6.8%	1180
9A	63.2-67	Welfare -- Youth & Family Services	2012	1552	253	16.3%	1634
10		Tables	2015	691		0.0%	
11		Rules	2011	n/a	n/a	n/a	
12		Index	2011	n/a	n/a	n/a	
13		Index	2011	n/a	n/a	n/a	
Compacts		Compacts	2010	514	121	23.5%	
Const.		Consts.	2008	296	73	24.7%	
LEO1		LEO/UPL	2002	631	58	9.2%	
LEO2		LEO/UPL	2013	955	58	6.1%	



Obsolete Laws Review:

Title 52. Police (State)

Division of Legislative Services
Charles Quagliato
Sabrina Miller-Bryson
Taylor Mey

Title 52: Police (State)

Code sections with recommended changes:

1. Chapter 2: Basic State Police Communication System (change to chapter name)
2. § 52-12. Establishment of State Police communication system.
3. § 52-13. Installation, operation, and maintenance of system; personnel.
4. § 52-14. Availability of system.
5. § 52-15. Control of system; orders, rules, or regulations.
6. § 52-16. Governor may establish and maintain joint communication system to aid police.
7. § 52-17. Contracts with counties, cities, and towns.
8. § 52-18. Districts.
9. § 52-19. Rules and regulations.
10. § 52-20. Arrests without warrants in certain cases.

Chapter 2: Basic State Police Communication System.

- **Recommendation:**

1. **Line 6: Strike “Basic”**

- “Basic” communication system refers to the private line typewriter/teletype communication system formerly used by the Virginia State Police. The current system is electronic, so the language in the Code is outdated.

§ 52-12. Establishment of State Police communication system.

Last amended: 1942

Recommendations:

- 1. Line 8: Strike “basic coordinating” and replace with “fully integrated” police communication system**
 - Virginia State Police no longer utilizes a “basic coordinating” police communication system, so the language is outdated
- 2. Line 9: Strike “of private line typewriter communication,”**
 - The communication system is no longer “of a private line typewriter communication,” so the language is outdated
- 3. Line 14: Strike “basic” and insert “communication” system**
 - Because the “basic” system is no longer in use by the State Police, the chapter now refers to the fully integrated VSP system as the “communication system”

§ 52-13. Installation, operation, and maintenance of system; personnel.

Last amended: 1942

Recommendations:

- 1. Lines 17-18: Strike “basic” and insert “communication”**
 - Virginia State Police no longer utilizes a “basic” system, so the language is outdated

- 2. Line 19: Lowercase “State”**
 - Technical change

§ 52-14. Availability of system.

Last amended: 1999

Recommendations:

- 1. Lines 22, 26, 30-31, 36, and 38-39: Strike “basic” and insert “communication” system in several places**
 - Virginia State Police no longer utilizes a “basic” system, so the language is outdated

- 2. Lines 22, 23, 24, 28, 33, and 36: Various technical changes**

§ 52-15. Control of system; orders, rules, or regulations.

Last amended: 1942

Recommendations:

1. **Line 41: Strike “Such basic” and insert “The communication” system**
 - Virginia State Police no longer utilizes a “basic” system, so the language is outdated
2. **Line 41: Insert “physical and operational” control**
 - Insertion of “physical and operational” to clarify the meaning of “control” in this context
3. **Line 43: Strike “his department” and insert “the Department of State Police”**
 - Technical change
4. **Line 45: Strike “in his discretion”**
 - The language “in his discretion” is unnecessary after “The Superintendent *may*”

§ 52-16. Governor may establish and maintain joint communication system to aid police.

Last amended: 1942

Recommendations:

1. **Line 47: Strike “in his discretion”**
 - The language “in his discretion” is unnecessary after “The Governor *may*”
2. **Lines 48-49: Strike “such,” insert “the,” and insert after ‘purpose’ “of establishing and maintaining a joint state and local police communication system”**
 - Changes language from “for *such* purpose,” to “for the purpose of establishing and maintaining a joint state and local police communication” for clarity
3. **Line 50-51: Strike “radio or teletype” and insert “communication” and strike “or any combination of the two”**
 - This language is outdated
4. **Line 51: Insert “and data”**
 - Because the communication system is now electronic/digital, addition of “and data” is necessary to accurately reflect the current system
5. **Line 52: Strike “Virginia” and insert “the Commonwealth”**
 - Technical change
6. **Lines 54-55: Insert “emergency management and response, information related to criminal activity”**
 - Language reflects additional ways VSP currently uses the communication system

§ 52-17. Contracts with counties, cities, and towns.

Last amended: 1942

Recommendations:

1. **Line 57: Insert “communication”**
 - Keeps consistent with the additional changes throughout the title/clarifies that the section is referring to “communication” system
2. **Lines 58: Strike “in his discretion”**
 - Language is unnecessary following “the Governor *may*”
3. **Line 59: Move “cities” to follow “counties”**
 - Technical change for consistency with the rest of the Code

§ 52-18. Districts.

Last amended: 1942

Recommendations:

1. **Line 66: Strike “in his discretion”**
 - Language is unnecessary following “the Governor *may*”
2. **Line 66-67: Strike “radio or teletype,” insert “communication system,” and strike “or combination of the two”**
 - Language is outdated
3. **Lines 69-70: Strike “radio or teletype,” insert “communication system,” and strike “or both”**
 - Language is outdated

§ 52-19. Rules and regulations.

Last amended: 1942

Recommendations:

1. **Line 72: Strike “cause to be made and issued such” and insert “make and issue”**
 - Technical change
2. **Line 73: Insert “communication”**
 - Keeps consistent with the additional changes throughout the title/clarifies the section is referring to “communication” system

§ 52-20. Arrests without warrants in certain cases.

Last amended: 1950

Recommendations:

- 1. Line 80: Strike “; and such” and insert “Such”**
 - Technical change
- 2. Lines 81-82: Strike “a telegram, a radio or teletype message, in which telegram, radio or teletype message shall be given” and insert “an electronic communication containing”**
 - Language referencing “a telegram, a radio or teletype message, in which telegram, radio or teletype message” is outdated
- 3. Lines 83-84: Strike “and an allegation that such person is likely to flee the jurisdiction of the Commonwealth”**
 - VSP does not receive such communications regarding allegations that such person is likely to flee the jurisdiction of the Commonwealth, so this language does not reflect current practice

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 52-12 through 52-20 of the Code of Virginia, relating to the Virginia
2 State Police communication system.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That §§ 52-12 through 52-20 of the Code of Virginia are amended and reenacted as follows:**

5 CHAPTER 2.

6 ~~BASIC~~ STATE POLICE COMMUNICATION SYSTEM.

7 **§ 52-12. Establishment of State Police communication system.**

8 There shall be established in the Department of State Police, a ~~basic coordinating fully integrated~~
9 police communication system ~~of private line typewriter communication~~, operating through sending and
10 receiving stations or receiving stations only, and such associated equipment as may be necessary, at the
11 headquarters of the Superintendent of State Police and at such substations or detached posts as shall be
12 designated by the Superintendent, for the purpose of prompt collection and distribution of information
13 throughout the Commonwealth as the police problems of the Commonwealth may require. Authority is
14 hereby granted to connect such ~~basic communication~~ system directly or indirectly with similar systems in
15 this or adjoining states.

16 **§ 52-13. Installation, operation, and maintenance of system; personnel.**

17 The Superintendent of State Police is authorized to install, operate, and maintain the ~~basic~~
18 ~~communication~~ system and to employ the necessary personnel for its installation, operation, and
19 maintenance. The persons so employed may be members of the State Police, or other ~~State state~~
20 employees, particularly qualified for the duty they are to perform.

21 **§ 52-14. Availability of system.**

22 The ~~basic communication~~ system ~~herein~~ provided for ~~in this chapter~~ may be made available for
23 use by any department or division of ~~the State state~~ government and by any county, city, town, railroad,
24 or other special police department lawfully maintained by any corporation in ~~this the~~ Commonwealth as
25 well as agencies of the federal government, subject to the following terms and conditions:

26 1. Application for permission to connect with the ~~basic~~ communication system shall be made to
27 the Superintendent of State Police on forms to be provided by him;

28 2. Such application may be approved by the Superintendent if, as, and when in his discretion such
29 connection is requisite and necessary for the best interests of the entire system;

30 3. Upon approval of such application and before the applicant shall be connected with the ~~basic~~
31 communication system, such applicant must agree to assume and pay all rentals for sending and receiving
32 stations, or receiving stations only, as may be authorized by the Superintendent for installation within the
33 jurisdiction of the applicant, and any and all costs of installation and operation of such stations; and

34 4. a. The Commonwealth shall pay all rental for necessary wire or circuit mileage required to
35 connect such stations operated by criminal justice agencies of the Commonwealth and its political
36 subdivisions, or the Federal Bureau of Investigation, with the ~~basic~~ communication system; and

37 b. All other agencies shall agree, as a condition of connection or continued service, to assume and
38 pay all rental for necessary wire or circuit mileage required to connect such stations with the ~~basic~~
39 communication system.

40 **§ 52-15. Control of system; orders, rules, or regulations.**

41 ~~Such basic~~ The communication system shall remain at all times under the physical and operational
42 control of the Superintendent of State Police, and such control may be exercised by him through such
43 member of ~~his department~~ the Department of State Police as he shall designate for such purpose.

44 The Superintendent may make and issue such orders, rules, or regulations for the use of the system
45 as ~~in his discretion~~ are necessary for efficient operation.

46 **§ 52-16. Governor may establish and maintain joint communication system to aid police.**

47 The Governor may ~~in his discretion~~ establish, purchase, lease, or otherwise acquire all necessary
48 property, real and personal, for ~~such~~ the purpose of establishing and maintaining a joint state and local
49 police communication system; and cause to be constructed, equipped, maintained, and operated, at such
50 place or places as he may determine, a ~~radio or teletype~~ communication system ~~or any combination of the~~
51 ~~two~~ for transmitting and receiving messages and data, in connection with the work of the police
52 departments of, and officers exercising police powers in, the cities, towns, and counties of ~~Virginia~~ the

53 Commonwealth and the work of the police officers of the Department of State Police, relating to the
54 detection of crime ~~and~~, the apprehension of criminals, emergency management and response, information
55 relating to criminal activity, and other necessary police activities.

56 **§ 52-17. Contracts with counties, cities, and towns.**

57 In order to make the communication system effective and of greatest benefit to the people of the
58 Commonwealth, the Governor may ~~in his discretion~~ enter into negotiations with and make contracts and
59 agreements with the ~~cities, counties,~~ cities, and towns of the Commonwealth whereby portions of the cost
60 of establishing, purchasing, constructing, maintaining, and operating such system will be borne by such
61 localities.

62 In making agreements with the several localities, due consideration shall be given to the population
63 thereof and to any expense incurred, or which may be incurred, by such localities in purchasing,
64 constructing, maintaining, and operating local systems for similar purposes.

65 **§ 52-18. Districts.**

66 The Governor may ~~in his discretion~~ divide the Commonwealth into two or more ~~radio or teletype~~
67 communication system districts ~~or combination of the two~~, and, in the event of the proper proportionate
68 monetary cooperation upon the part of localities within any one or more of such districts, may arrange for
69 the establishment, purchase, installation, maintenance, and operation of such ~~radio or teletype~~
70 communication system equipment ~~or both~~ within such district or districts.

71 **§ 52-19. Rules and regulations.**

72 The Governor may ~~cause to be made and issued such~~ make and issue reasonable rules and
73 regulations as he may deem necessary for the proper use of such communication system.

74 **§ 52-20. Arrests without warrants in certain cases.**

75 A. For the purposes of this section, "electronic communication" means the use of technology
76 having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit
77 or receive information.

78 B. Members of the State Police force of the Commonwealth, provided such officers are in uniform,
79 or displaying a badge of office, may, at the scene of any motor vehicle accident, or in the apprehension of

80 any person charged with the theft of any motor vehicle, on any of the highways of the Commonwealth,
81 upon reasonable grounds to believe, based upon personal investigation, including information obtained
82 from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such
83 person without a warrant of arrest; ~~and such.~~ Such officers may arrest, without a warrant, persons duly
84 charged with crime in another jurisdiction upon receipt of ~~a telegram, a radio or teletype message, in which~~
85 ~~telegram, radio or teletype message shall be given~~ an electronic communication containing the name or a
86 reasonably accurate description of such person wanted, and the crime alleged ~~and an allegation that such~~
87 ~~person is likely to flee the jurisdiction of the Commonwealth.~~

88

#

SUMMARY

Virginia State Police communication system. Removes obsolete language relating to the teletype system formerly used by the Virginia State Police. The bill contains technical amendments.

§ 19.2-81. Arrest without warrant authorized in certain cases

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;
8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
9. Special agents of the Virginia Alcoholic Beverage Control Authority;
10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the

scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

Code 1950, § 19.1-100; 1960, c. 366; 1974, c. 241; 1975, c. 495; 1976, cc. 515, 570; 1977, c. 97; 1979, c. 268; 1982, c. 272; 1983, c. 206; 1984, c. 534; 1985, c. 507; 1988, cc. 353, 744, 752, 853; 1989, c. 726; 1990, cc. 635, 744, 784; 1995, c. 465; 1996, cc. 866, 929, 1015; 1998, c. 684; 2004, c. 949; 2005, cc. 88, 435; 2008, cc. 460, 737; 2010, c. 840; 2011, cc. 510, 643; 2012, c. 776; 2013, c. 787; 2014, c. 543; 2015, cc. 38, 730; 2017, c. 208.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 51.1-124.1 of the Code of Virginia, relating to Title 51.1; section not set
2 out in Code of Virginia.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 51.1-124.1 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 51.1-124.1. Virginia Retirement System established.**

6 ~~Article X, Section 11 of the Constitution of Virginia requires the General Assembly to maintain a~~
7 ~~state employees' retirement system, subject to restrictions and conditions prescribed by the General~~
8 ~~Assembly, that shall be administered in the best interests of the beneficiaries thereof. Pursuant to this~~
9 ~~constitutional duty, the General Assembly hereby finds and declares that all present and future members~~
10 ~~of the Retirement System are entitled to a retirement system whose governing structure and institutional~~
11 ~~organization foster public confidence and trust in its investment practices, policy decisions, and~~
12 ~~administrative operations. To that end and for the purposes of providing adequate benefits and pensions~~
13 ~~to members, encouraging stable employer contribution rates, and ensuring the overall soundness of the~~
14 ~~Retirement System, the~~ The General Assembly hereby establishes the Virginia Retirement System as an
15 independent agency of the Commonwealth, exclusive of the legislative, executive, and judicial branches
16 of government, in the following provisions.

17 **RECOMMENDATION: Set out this Code section as amended. The amendments eliminate language**
18 **that is declarative of current constitutional law. The amendments also remove provisions stating the**
19 **purpose of the Virginia Retirement System (VRS) because it is the policy of the Code Commission**
20 **to exclude provisions that establish purpose and legislative intent. Representatives of VRS stated**
21 **that they would prefer the section to be set out but to retain all other language in the Code section,**
22 **with technical amendments to reflect policy changes since the section was enacted. In their view, the**
23 **language is substantive and emphasizes VRS's unique status as one of only a handful of independent**
24 **agencies in Virginia state government.**

25 #

SUMMARY

Title 51.1; section not set out in Code of Virginia. Sets out a section in Title 51.1 (Pensions, Benefits, and Retirement) that is currently carried by reference only. Technical amendments are made. This bill is a recommendation of the Virginia Code Commission.

Virginia Code Commission

October 18, 2021 Meeting

Recommendations for Sections Currently Shown as "Not Set Out" in Title 58.1

Title 58.1 - Taxation

Chapter 18

State Recordation Tax

§ 58.1-815.3. U.S. Route 29 Corridor Development Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the U.S. Route 29 Corridor Development Fund, consisting of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted or otherwise made available to the Fund, and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the General Fund, but shall remain in the Fund. Allocations from this Fund may be paid to any authority, locality or commission for the purpose of highway construction and improvements to and within the U.S. Route 29 Corridor.

2. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in an appropriation act up through the 2005 Appropriation Act, passed by the General Assembly, and signed into law by the Governor.

(2000, c. 681, cl. 1.)

RECOMMENDATION: Repeal the section by way of a bill. This section was not set out at the direction of the Code Commission when no qualifying appropriation was passed in 2000 and it appears no appropriation was made thereafter. We are awaiting input from VDOT, but given the second enactment clause removing the effectiveness of the provision absent a qualifying appropriation by 2005, consider repealing this section by way of a bill.

Chapter 32

Real Property Tax

Article 4

Special Assessment for Land Preservation

§ 58.1-3229. Declaration of policy.

An expanding population and reduction in the quantity and quality of real estate devoted to agricultural, horticultural, forest and open space uses make the preservation of such real estate a matter vital to the public interest. It is, therefore, in the public interest (a) to encourage the preservation and proper use of such real estate in order to assure a readily available source of agricultural, horticultural, and forest products and of open spaces within reach of concentrations of population, to conserve natural resources in forms which will prevent erosion, to protect

adequate and safe water supplies, to preserve scenic natural beauty and open spaces and to promote proper land use planning and the orderly development of real estate for the accommodation of expanding population, and (b) to promote a balanced economy and ameliorate pressures which force the conversion of such real estate to more intensive uses and which are attributable in part to the assessment of such real estate, at values incompatible with its use and preservation for agricultural, horticultural, or open space purposes.

It is the intent of this article to provide for the classification, and permit the assessment and taxation, of such real estate in a manner that will promote the preservation of it ultimately for the public benefit.

(1950, § 58-769.4; 1971, Ex. Sess., c. 172; 1984, c. 675.)

RECOMMENDATION: Repeal this section by way of a bill. This section does not create substantive law and merely declares the policy intent behind special land assessments for land preservation. That intent is noted and accomplished in the substantive provisions of Article 4 that follow this section. The section still accurately represents the intent present in Article 4.

Chapter 35

Tangible Personal Property, Machinery and Tools and Merchants' Capital

Article 1.01

Alternative Tax Rates for Elderly and Handicapped

§ 58.1-3506.8. Designation by General Assembly.

The General Assembly hereby deems those persons falling within the limitations and conditions provided by §§ 58.1-3506.1 and 58.1-3506.2 of this article to be bearing an extraordinary tax burden on certain tangible personal property in relation to their income and financial worth.

(1991, c. 646.)

RECOMMENDATION: Repeal this section by way of a bill. This section does not create substantive law and merely states a policy designation that created alternative tax rates for certain elderly and handicapped individuals. That designation is accomplished in the substantive provisions of Article 1.01 that precede this section. The section still accurately represents the reasons behind designating alternative tax rates for certain elderly and handicapped individuals.

Chapter 38.
Miscellaneous Taxes
Article 4
Consumer Utility Taxes

§ 58.1-3814.1. Consumer utility tax on churches in the Counties of Henry and Stafford.

The counties of Henry and Stafford shall not impose a consumer utility tax on electric service for a church, as defined in § 56-236.1, at a rate which exceeds the residential rate if the church receives the residential service rate from the electric utility. However, any church receiving such rate shall give written notice to the electric utility that it receives such residential service rate.

(1988, c. 702; 1990, c. 492.)

RECOMMENDATION: Consider setting out the section with an updated section title to reflect the authority specific to the Counties of Henry and Stafford. While this section is specific to only two counties, who were not named explicitly in its original form, setting out this section would help clarify how their consumer utility tax authority differs from other localities with respect to churches. Representatives from the Counties of Henry and Stafford both expressed a preference that the section be set out.

Chapter 38.
Miscellaneous Taxes
Article 6
Transient Occupancy Tax

§ 58.1-3820. Arlington County Transient Occupancy Tax.

Notwithstanding the provisions of Chapter 443, as amended, of the Acts of Assembly of 1970 carried by reference in the Code of Virginia as § 58.1-3819, beginning on and after July 1, 1977, Arlington County is authorized to levy the transient occupancy tax permitted in § 58.1-3819 in an amount not to exceed five percent of the amount of the charge for the occupancy of any room or space occupied, provided that the county's local license tax as permitted in § 58.1-3703, as amended, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than thirty consecutive days, on and after January 1, 1978, shall not exceed one percent of the gross receipts of such hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than thirty consecutive days. For purposes of this section, a corporation or partnership shall be deemed an individual or group unless provided otherwise by a local ordinance. For purposes of exercising the authority granted by this section, those ordinances enacted by Arlington County on October 26, 1991, and December 7, 1991, are validated as to their application, prospectively only, from the date of their enactment. The remaining provisions of § 58.1-3819 shall apply mutatis mutandis to the provisions of this section.

(1977, c. 265; 1984, c. 675; 1992, c. 834). Repealed by Acts 2020, cc. 1214 and 1263, cl. 2, effective May 1, 2021.

§ 58.1-3821. Transient Occupancy Tax on Certain Rentals.

The County of Franklin and the County of Nelson may, by ordinance, levy a transient occupancy tax on condominiums, apartments, townhouses, or like buildings when rooms or units in such buildings are rented for occupancy for fewer than thirty days at a time. The tax imposed hereunder shall not apply to rooms or units rented for continuous occupancy by the same individual or group for thirty or more days in condominiums, apartments, townhouses, or like buildings.

Such tax shall be in an amount and on such terms as the governing body, by ordinance, may prescribe; however, in the County of Franklin such tax shall not exceed two percent of the amount of charge for the occupancy of any room or space occupied and in the County of Nelson such tax shall not exceed 5% of the amount of charge for the occupancy of any room or space occupied. Any revenue collected in Nelson County from that portion of the tax which exceeds 2%, shall be designated and spent for promoting tourism, travel, or business that generates tourism or travel in the county. Any county which imposes the tax authorized in this section may allow the businesses collecting, accounting for, and remitting such consumer tax a commission for such service in the form of a deduction from the tax remitted. The commission amount shall be established by ordinance; however, the maximum commission payable shall not exceed five percent of the amount of tax due and accounted for nor be less than a minimum of three percent of the amount of tax due. No commission shall be allowed if the amount due was delinquent.

(1990, c. 436; 1994, c. 896; 2006, c. 111). Repealed by Acts 2020, cc. 1214 and 1263, cl. 2, effective May 1, 2021.

RECOMMENDATIONS: Both §§ 58.1-3820 and 58.1-3821 were formally repealed by the 2020 Acts of Assembly in chapters 1214 and 1263. The repeal became effective on May 1, 2021. Therefore, no further action is recommended.

**Virginia Code Commission
Recommendations for Codified Sections Currently Shown as
"Not Set Out" in Title 28.2**

**Title 28.2.
Fisheries and Habitat of the Tidal Waters.**

SUBTITLE III.
HABITAT.

CHAPTER 13.
WETLANDS.

Article 3.
Permits and Review.

§ 28.2-1309. Emergency sand grading activities on nonvegetated wetlands located on the Atlantic Shoreline of Virginia Beach.

A. As used in this section, "emergency" means a sudden and unforeseeable occurrence or condition of such disastrous severity or magnitude that governmental action beyond that authorized by existing law is required because governmental inaction for the period required to amend the law to meet the exigency would cause immediate and irrevocable harm to the citizens or a portion of the citizenry of the Commonwealth.

B. Notwithstanding the provisions of § 28.2-1302, sand grading activities are permitted on nonvegetated wetlands located on the Atlantic Shoreline of the City of Virginia Beach if (i) such activities are otherwise permitted by law; and (ii) the city manager has declared an emergency and has issued a permit for this such purpose. Such activities may be conducted without advance notice and hearing; however, the city manager, upon request and after reasonable notice as to time and place, the city manager shall hold a hearing to affirm, modify, amend, or cancel such emergency permit. "Emergency," as used in this section, means a sudden and unforeseeable occurrence or condition of such disastrous severity or magnitude that governmental action beyond that authorized by existing law is required because governmental inaction for the period required

~~to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or a portion of the citizenry of the Commonwealth.~~

(1992, c. 836.)

RECOMMENDATION: Set out in the Code with the included technical amendments and with the amendment as shown to clarify the identity of the person who is required to hold a hearing in certain circumstances. Representatives of the Virginia Marine Resources Commission and the City of Virginia Beach have advised that they do not object to this section being set out.

CHAPTER 14.
COASTAL PRIMARY SAND DUNES AND BEACHES.
Article 3.
Permits and Review.

§ 28.2-1409. Emergency sand grading activities on sand dunes located on the Atlantic Shoreline of Virginia Beach.

A. As used in this section, "emergency" means a sudden and unforeseeable occurrence or condition of such disastrous severity or magnitude that governmental action beyond that authorized by existing law is required because governmental inaction for the period required to amend the law to meet the exigency would cause immediate and irrevocable harm to the citizens or a portion of the citizenry of the Commonwealth.

B. Notwithstanding the provisions of § 28.2-1403, sand grading activities are permitted on coastal primary sand dunes located on the Atlantic Shoreline of the City of Virginia Beach if (i) such activities are otherwise permitted by law; and (ii) the city manager has declared an emergency and has issued a permit for this such purpose. Such activities may be conducted without advance notice and hearing; however, ~~the city manager~~, upon request and after reasonable notice as to time and place, the city manager shall hold a hearing to affirm, modify, amend, or cancel such emergency permit. ~~"Emergency," as used in this section, means a sudden and unforeseeable~~

~~occurrence or condition of such disastrous severity or magnitude that governmental action beyond that authorized by existing law is required because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or a portion of the citizenry of the Commonwealth.~~

(1992, c. 836.)

RECOMMENDATION: Set out in the Code with the included technical amendments and with the amendment as shown to clarify the identity of the person who is required to hold a hearing in certain circumstances. Representatives of the Virginia Marine Resources Commission and the City of Virginia Beach have advised that they do not object to this section being set out.

**Virginia Code Commission
Recommendations for Codified Section Currently Shown as
"Not Set Out" in Title 29.1**

**Title 29.1.
Wildlife, Inland Fisheries and Boating.**

**CHAPTER 6.
PRESERVES AND SANCTUARIES.**

§ 29.1-610. Portion of James River ~~declared~~ a no-hunting area.

The James River, ~~downstream~~ from Boshers' Dam downstream to the Interstate 95 bridge, is ~~hereby declared a no-hunting~~ no-hunting area. It ~~shall be~~ is unlawful to take, attempt to take, or pursue wildlife within ~~this~~ such area; however, fishing in ~~this~~ such area ~~shall be~~ is permitted as otherwise authorized by law.

(1987, c. 488.)

RECOMMENDATION: Set out in the Code with amendment as shown for clarity. A representative of the Division of Wildlife Resources has advised that the agency does not object to the setting-out of the section.

**Virginia Code Commission
Recommendations for Codified Sections Currently Shown as
"Not Set Out" in Title 62.1**

**Title 62.1.
Waters of the State, Ports and Harbors.**

CHAPTER 3.1.
STATE WATER CONTROL LAW.

Article 4.
Regulation of Sewage Discharges.

§ 62.1-44.19:1. Prohibiting sewage discharge under certain conditions in Virginia Beach.

~~Whenever~~ If the Board or the State Department of Health or the State Water Control Board determines that a receiving stream in the City of Virginia Beach is being polluted by the sewage discharge from a private or public sewage utility, and that it is possible to connect such utility to the sewage system of a municipality, sewage treatment authority, or sanitation district, the Board ~~is hereby empowered to~~ may order the utility in the City of Virginia Beach to stop such discharge into the receiving stream. The utility shall ~~discontinue the said~~ such discharge within one year of such order by providing either ~~by~~ (i) adequate treatment as determined by the Board or the State Department of Health or Water Control Board, or by (ii) a connection to central facilities, either of which is to occur within one year.

(1972, c. 840.)

RECOMMENDATION: Set out in the Code with amendment as shown to clarify the period within which a utility is required to discontinue certain discharges. Representatives of the Department of Environmental Quality and the City of Virginia Beach have advised that they do not object to the setting-out of the section.

§ 62.1-44.19:2. Additional requirements on sewage discharge in the Cities of Chesapeake, Hampton, Newport News, Norfolk, and Virginia Beach.

~~On and after~~ A. Beginning January one, nineteen hundred seventy three, all 1, 1973, every sewage pumping ~~stations~~ station in the Cities of Chesapeake, ~~Newport News,~~ Hampton, Newport News, Norfolk, and Virginia Beach shall:

~~(a) have~~ 1. Have adequate personnel on call at all times, each of whom may serve multiple pumping stations, as prescribed by the Chesapeake, ~~Newport News,~~ Hampton, Newport News, Norfolk ~~and,~~ or Virginia Beach ~~City Councils~~ Council, respectively;

~~(b) be~~ 2. As prescribed by the Board, be inspected at ~~such~~ intervals and maintain ~~such~~ records of inspection ~~as shall be prescribed by the Board, which.~~ Such records shall be open for review by the Board or its representatives at any reasonable time ~~it shall designate~~ designates;

~~(c) have~~ 3. Have an automatic alarm system installed to give immediate warning of any pump station failure;

~~(d) have~~ 4. Have emergency pump connections installed and have portable pumps available to pump sewage to downstream sewer lines during ~~periods~~ any period of pump station failure;

~~(e) not~~ 5. Not use, except in an emergency pursuant to regulations as provided by the Board, any overflow ~~lines~~ line from any such pumping ~~stations,~~ station except as provided in ~~subsection (d) herein~~ subdivision 4.

B. Any sewerage system within the ~~cities~~ City of Chesapeake, ~~Newport News,~~ Hampton, Newport News, Norfolk ~~and,~~ or Virginia Beach ~~which that~~ that complies with the requirements of this section ~~shall be~~ is deemed to meet the requirements for continuous operability as set forth in regulations of the Board or the State Department of Health ~~or the State Water Control Board.~~

(1972, c. 840; 1975, c. 373; 1976, c. 188.)

RECOMMENDATION: Set out in the Code with amendment as shown for clarity. Representatives of the Department of Environmental Quality and the Cities of Chesapeake, Hampton, Newport News, Norfolk, and Virginia Beach have advised that they do not object to the setting-out of the section.

Virginia Code Commission
Recommendations for Revisions to Three Sections of the
Scenic Rivers Act, Chapter 4 (§ 10.1-400 et seq.) of Title 10.1

Title 10.1.
Conservation.

SUBTITLE I.
ACTIVITIES ADMINISTERED BY THE DEPARTMENT
OF CONSERVATION AND RECREATION.

CHAPTER 4.
SCENIC RIVERS ACT.

§ 10.1-408. Uses not affected by scenic river designation.

A. Except as provided in § 10.1-407, all riparian land and water uses along or in the designated section of a river that are permitted by law shall not be restricted by this chapter.

B. Designation as a scenic river shall not be used:

1. To designate the lands along the river and its tributaries as unsuitable for mining pursuant to § 45.2-1028 or regulations promulgated with respect to such section, or as unsuitable for use as a location for a surface mineral mine as defined in § 45.2-1101; however, the Department shall still be permitted to exercise the powers granted under § 10.1-402; or

2. To be a criterion for purposes of imposing water quality standards under the federal Clean Water Act.

C. Nothing in this chapter shall preclude the federal government, the Commonwealth, or a locality or local governing body from using, constructing, reconstructing, replacing, repairing, operating, or performing necessary maintenance on any road or bridge.

D. Nothing in § 10.1-414 or 10.1-418.6 shall preclude the Commonwealth or a local governing body or authority from constructing, reconstructing, operating, or performing necessary maintenance on any transportation or public water supply project.

E. Nothing in this chapter shall preclude the continued:

1. Use, operation, and maintenance of the existing Loudoun County Sanitation Authority water impoundment or the installation of new water intake facilities in the existing reservoir located within the section of Goose Creek designated by § 10.1-411;

2. Operation and maintenance of existing dams in the section of the Rappahannock River designated by § 10.1-415;

3. Operation, maintenance, alteration, expansion, or destruction ~~of the Embrey Dam or its appurtenances~~ by the City of Fredericksburg, including of the old VEPCO canal and the existing City Reservoir behind the Embrey Dam, or any other part of the ~~City's~~ city's waterworks; or

4. Operation and maintenance of existing dams in the section of the Clinch River designated by § 10.1-410.2.

F. The City of Richmond shall be allowed to reconstruct, operate, and maintain existing facilities at the Byrd Park and Hollywood Hydroelectric Power Stations at current capacity. Nothing in this chapter shall be construed to prevent the Commonwealth, the City of Richmond, or any common carrier railroad from constructing or reconstructing floodwalls or public common carrier facilities that may traverse the section of the James River designated by § 10.1-412, such as road or railroad bridges, raw water intake structures, or water or sewer lines that would be constructed below water level.

G. The owner of the Harvell Dam in the City of Petersburg may construct, reconstruct, operate, and maintain the Harvell Dam subject to other law and regulation.

H. Nothing in this chapter shall preclude the Commonwealth, the City of Fredericksburg, or the County of Stafford, Spotsylvania, or Culpeper from constructing any new raw water intake structures or devices, including pipes and reservoirs but not dams, or laying water or sewer lines below water level.

I. Nothing in this chapter shall:

1. Preclude the construction, operation, repair, maintenance, or replacement of (i) a natural gas pipeline for which the State Corporation Commission has issued a certificate of public convenience and necessity or any connections with such pipeline owned by the Richmond Gas

Utility and connected to such pipeline or (ii) the natural gas pipeline, case number PUE 860065, for which the State Corporation Commission has issued a certificate of public convenience and necessity; or

2. Be construed to prevent the construction, use, operation, and maintenance of a natural gas pipeline (i) traversing the portion of the river designated by § 10.1-411.1 at, or at any point north of, the existing power line that is located approximately 200 feet north of the northern entrance to the Swede Tunnel or (ii) on or beneath the two existing railroad trestles, one located just south of the Swede Tunnel and the other located just north of the confluence of the Guest River with the Clinch River, or to prevent the use, operation, and maintenance of such railroad trestles in furtherance of the construction, operation, use, and maintenance of such pipeline.

RECOMMENDATION: Make technical revisions to remove references to the Embrey Dam and its reservoir in the City of Fredericksburg because the dam no longer exists. The City of Fredericksburg and the Department of Conservation and Recreation have advised that they do not object to the removal of such references.

§ 10.1-411.1. ~~Clinch-Guest~~ Guest State Scenic River.

~~The Clinch River from the Route 58 bridge in St. Paul to the junction with the Guest River, a distance of approximately 9.2 miles, and a segment of the Guest River in Wise County, from a point 100 feet downstream from the Route 72 bridge to its confluence with the Clinch River, a distance of approximately 6.5 miles,~~ are ~~is~~ hereby designated as the ~~Clinch-Guest~~ Guest State Scenic River, a component of the Virginia Scenic Rivers System.

RECOMMENDATION: Make technical revisions to the description of the Guest State Scenic River to eliminate a duplicate designation of a portion of the Clinch State Scenic River. Current law combines the Guest State Scenic River with a portion of the Clinch State Scenic River as the Clinch-Guest State Scenic River. The referenced portion of the Clinch State Scenic River, however, is encompassed within the Clinch State Scenic River as designated in § 10.1-410.2. The Department of Conservation and Recreation has advised that it does not object to the removal of the duplicate designation.

§ 10.1-412. Historic Falls of the James State Scenic River.

The Historic Falls of the James ~~from Orleans Street extended~~ in the City of Richmond ~~westward to,~~ from the western 1970 corporate limits of the city to Orleans Street extended, a distance of approximately eight miles, is hereby designated as the Historic Falls of the James State Scenic River, a component of the Virginia Scenic Rivers System.

RECOMMENDATION: Make technical revisions to the description of the Historic Falls of the James State Scenic River. The revisions bring the description in line with the conventions of the Scenic Rivers Act by describing the river from upstream to downstream and by indicating the length of the designated portion of the river. The Department of Conservation and Recreation has advised that it does not object to the revisions.