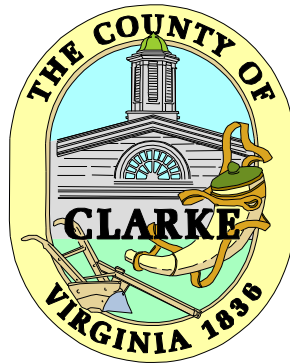


Board of Supervisors Committee Meeting Packet



Monday, June 13, 2016

Personnel Committee	9:30 am
Work Session	10:00 am
Finance Committee	Cancelled



Personnel Committee Items

Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611

June 13, 2016 9:30 am

Item No.

Description

- A. Expiration of Term for appointments expiring through August 2016

- B. County Administrator Update on Pay Classification and Pay Plan; FY2017 General Government Salary Adjustments

Appointments by Expiration Through August 2016

Appt Date Exp Date Orig Appt Date:

October 2015

Clarke County Industrial Development Authority 4 Yr
 Armbrust Wayne White Post District; Vice Chair 8/19/2008 10/30/2015 2/15/2004
 Treasurer 2005 to 2011; Secretary 2006 to 2011; Resigned term expires 10/30/2015
 Appointed by BOS; Oath of Office Required - Clerk of Circuit Court; 7 members, 1 BOS liaison (non-voting) and 6 others that are chosen on their expertise in the business field. Membership governed by IDA by-laws. 15.2-4904 No director shall be an officer or employee of the locality except in towns under 3,500

March 2016

Our Health 3 Yr
 Shipe Diane Buckmarsh District 4/16/2013 3/15/2016 3/16/2010
 1 Clarke County Member - "Group A Directors" shall serve at the discretion of the appointing Group A entity

June 2016

Board of Equalization N/A
 McFillen Thomas Berryville District 1/1/2016 6/30/2016 12/21/2015
 Appointed by Circuit Court; Send letter of recommendation to Clerk. § 58.1-3374. Qualifications of members; vacancies.

McIntosh Anne White Post District 1/1/2016 6/30/2016 12/21/2015
 Appointed by Circuit Court; Send letter of recommendation to Clerk. § 58.1-3374. Qualifications of members; vacancies.

Blatz Joseph White Post District 1/1/2016 6/30/2016 12/20/2005
 Appointed by Circuit Court; Send letter of recommendation to Clerk. § 58.1-3374. Qualifications of members; vacancies.

Hope Lindsay Russell District 1/1/2016 6/30/2016 11/3/2009
 Appointed by Circuit Court; Send letter of recommendation to Clerk. § 58.1-3374. Qualifications of members; vacancies.

Dame Thomas Millwood District 1/1/2016 6/30/2016 12/20/2005
 Appointed by Circuit Court; Send letter of recommendation to Clerk. § 58.1-3374. Qualifications of members; vacancies.

Clarke County Sanitary Authority 4 Yr
 Welliver Ralph Berryville District 3/19/2013 6/30/2016 3/19/2013
 The board of the Authority shall be appointed by the BOS and shall be composed of 5 members, 1 of whom shall be a resident of the Town of Boyce, each for a term of 4 years and until his successor is appointed and qualifies except appointments to fill vacancies, which shall be for the remainder of such un-expired term. The Town may submit a nominee or nominees to the BOS for its consideration in making the appointment of the Boyce resident member. From VA Code 15.2-5113 D) Alternate board members may also be selected. Such alternates shall be selected in the same manner and shall have the same qualifications as the board members except that an alternate for an elected board member need not be an elected official. Oath of Office Required.

			<i>Appt Date</i>	<i>Exp Date</i>	<i>Orig Appt Date:</i>
Lord Fairfax Community College Board					
Daniel	William	Berryville District	7/1/2012	6/30/2016	5/15/2012
1 Clarke County Member; 2 Term Limit					

Lord Fairfax Emergency Medical Services Council					
Stidham	Angela	Medical Professional; White Post District	9/17/2013	6/30/2016	9/17/2013
3 Clarke County Members; 3-year term; 3 consecutive terms limit; Each locality will be represented with at least 1 volunteer and 1 career EMS provider. The following classes and categories of individuals, organizations, and professions will be eligible as members of the Board: Consumers; Governmental Representatives; Hospital Administration; Physicians; Nurses; Rescue Squads and Fire Companies					

Regional Airport Authority					
Crawford	John	Buckmarsh District	7/17/2012	6/30/2016	7/1/1997
1 Clarke County Member; Members appointed by additional participating political subdivisions or directors appointed by existing political subdivisions shall also be appointed for 4-year terms.					

July 2016

Board of Social Services					
Ferrebee	Robert	Millwood District	4/16/2013	7/15/2016	4/16/2013
Appointed by BOS; 2 Term Limit; Oath of Office Required - Clerk of Circuit Court; BOS appoints 3 qualified citizens of the county, 1 of whom may be a member of the BOS ; § 15.2-412.					

People Inc. of Virginia					
Hillerson	Coleen	Clarke County Rep Board of Directors	6/18/2013	7/31/2016	8/17/2010
Board added 8/2010					
1 Clarke County Member; Public officials, or their representatives shall serve at the pleasure of the designating officials or as long as the public official is currently holding office.					

August 2016

Economic Development Advisory Committee					
Pritchard	Elizabeth	Hospitality Industry	7/17/2012	8/31/2016	8/17/2010
Members of the committee should include one or more people from all key government and business groups such as planning commission, board of supervisors, school board, industrial development authority, town of Berryville, chamber of commerce, and key business sectors such as agriculture, banking, realty, light industry, retail and tourism. Membership not limited.					

Fire & EMS Commission					
Leffel	Elizabeth	Chair; Citizen-at-large	9/1/2014	8/31/2016	8/19/2014
Membership Comp; Term. The Commission shall consist of (7) members including (1) member of the BoS; the Clarke County Sheriff; (2) representatives recommended by the Clarke County Fire & Rescue Association to represent Fire & EMS services respectively; and (3) citizens-at-large representing consumers of fire and EMS services. The (2) Fire & Rescue Association representatives shall serve one-year terms. The (3) citizens-at-large shall be appointed for initial terms of (1) year, (2) years, and (3) years and thereafter for (4) year terms. The Sheriff shall serve a term coterminous with the term of office. The BoS shall appoint a representative annually at or shortly after their annual organizational meeting to serve a one-year term.					

Appt Date Exp Date Orig Appt Date:

Fire & EMS Commission

Hoff	Matt	Volunteer Association / EMS Issues / Boyce VFC	11/17/2015	8/31/2016	8/19/2014
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Membership Comp; Term. The Commission shall consist of (7) members including (1) member of the BoS; the Clarke County Sheriff; (2) representatives recommended by the Clarke County Fire & Rescue Association to represent Fire & EMS services respectively; and (3) citizens-at-large representing consumers of fire and EMS services. The (2) Fire & Rescue Association representatives shall serve one-year terms. The (3) citizens-at-large shall be appointed for initial terms of (1) year, (2) years, and (3) years and thereafter for (4) year terms. The Sheriff shall serve a term coterminous with the term of office. The BoS shall appoint a representative annually at or shortly after their annual organizational meeting to serve a one-year term.

Clarke County Committee Listing

			<i>Appt Date</i>	<i>Exp Date</i>
<i>Agricultural & Forestal District Advisory Committee</i>				6 Yr
Buckley	Samuel	Landowner/Producer	8/18/2015	7/15/2021
Childs	Corey	Landowner	8/18/2015	7/15/2021
Day	Emily	Landowner/Producer	8/18/2015	7/15/2021
Dorsey	Tupper	Landowner/Producer	8/18/2015	7/15/2021
Gordon	Carolyn	Landowner	8/18/2015	7/15/2021
Haynes	Carole	Landowner	9/15/2015	7/15/2021
McKay	Beverly B.	BoS - Appointed Member	8/18/2015	7/15/2021
Peake	Donna	Commissioner of the Revenue	8/18/2015	7/15/2021
Shenk	Philip	Landowner/Producer	8/18/2015	7/15/2021
<i>Barns of Rose Hill Board of Directors</i>				3 Yr
Cammack	Thomas		1/19/2016	12/31/2018
<i>BCCGC Joint Building Committee</i>				Open-End
Ash	David L.	County Administrator		
Dalton	Keith	Berryville Town Manager		
Kitselman	Allen	Berryville Town Council Representative		
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Berryville Area Development Authority</i>				3 Yr
Mackay-Smith	Wingate E.	White Post District	4/1/2015	3/31/2018
Ohrstrom, II	George	Russell District	3/15/2016	3/31/2019
Smart	Kathy	White Post District	1/23/2014	3/31/2017
<i>Berryville/Clarke County Joint Committee for Economic Development and Tourism</i>				Ongoing
Arnold, Jr.	Harry Lee	BTC - Appointed Member		
Ash	David L.	County Administrator	1/11/2016	12/31/2016
Capelli	Len	Director of Economic Development	4/14/2015	4/14/2016
Dunkle	Christy	Staff Representative - Town		
Stidham	Brandon	Staff Representative - County	5/20/2014	
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Board of Equalization</i>				
Blatz	Joseph	White Post District	1/1/2016	6/30/2016
Dame	Thomas	Millwood District	1/1/2016	6/30/2016
Hope	Lindsay	Russell District	1/1/2016	6/30/2016
McFillen	Thomas	Berryville District	1/1/2016	6/30/2016
McIntosh	Anne	White Post District	1/1/2016	6/30/2016
<i>Board of Septic & Well Appeals</i>				4 Yr

Monday, June 06, 2016

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			<i>Appt Date</i>	<i>Exp Date</i>
Blatz	Joseph	White Post District; Citizen Member	4/17/2012	2/15/2020
Caldwell	Anne	Millwood District; Planning Commission; Vice Chair - Alternate	1/8/2016	12/31/2016
Daniel	Mary L.C.	BoS - Alternate	1/11/2016	1/11/2016
McKay	Beverly B.	BoS - Vice Chair Appointed Member	1/11/2016	12/31/2016
Ohrstrom, II	George	Russell District; Planning Commission Chair	1/8/2015	12/31/2016

Board of Social Services

4 Yr

Brown	Dwight	Berryville District	4/16/2013	7/15/2017
Byrd	Barbara J.	BoS - Appointed Member	1/11/2016	12/31/2016
Ferrebee	Robert	Millwood District	4/16/2013	7/15/2016
Gray	Lynn	Berryville District	6/17/2014	7/15/2018
Pierce	Edwin Ralph	Berryville District	11/18/2014	7/15/2018

Board of Supervisors

4 Yr

Byrd	Barbara J.	Russell District	1/1/2016	12/31/2019
Catlett	Terri T.	Millwood/Pinegrove Districts	1/1/2016	12/31/2019
Daniel	Mary L.C.	Berryville District	1/1/2016	12/31/2019
McKay	Beverly B.	White Post District, Vice Chair	1/1/2016	12/31/2019
Weiss	David S.	Buckmarsh/Blue Ridge Districts; Chair	1/1/2016	12/31/2019

Board of Supervisors Finance Committee

1 Yr

Byrd	Barbara J.	BoS - Alternate	1/11/2016	12/31/2016
Catlett	Terri T.	BoS - Appointed Member	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Alternate	1/11/2016	12/31/2016
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016

Board of Supervisors Personnel Committee

1 Yr

Byrd	Barbara J.	BoS - Alternate	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016

Board of Zoning Appeals

5 Yr

Borel	Alain F.	White Post District	1/23/2014	2/15/2019
Caldwell	Anne	Millwood District	2/25/2015	2/15/2020
Kackley	Charles	Russell District	2/12/2008	2/15/2018
McKelvy	Pat	Alternate At Large	2/6/2014	2/15/2019
Means	Howard	Millwood District	12/14/2009	2/15/2021
Volk	Laurie	White Post District	2/18/2014	2/15/2019

Building and Grounds

1 Yr

McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
Weiss	David S.	BoS - Alternate	1/11/2016	12/31/2016

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			<i>Appt Date</i>	<i>Exp Date</i>
<i>Career and Technical Education Advisory Committee</i>				1 Yr
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Clarke County Historic Preservation Commission</i>				4 Yr
Arnett	Betsy	Berryville District	4/19/2016	5/31/2020
Caldwell	Anne	Millwood District	4/16/2014	5/31/2017
Carter	Paige	White Post District	4/19/2016	5/31/2020
Joyce	Jon	Buckmarsh District	6/16/2015	5/31/2019
Kruhm	Doug	Planning Commission Representative	2/16/2016	4/30/2017
Stieg, Jr.	Robert	Millwood District	6/17/2014	5/31/2018
Teetor	Alison	Staff Representative		
York	Robert	White Post District	6/18/2013	5/31/2017
<i>Clarke County Humane Foundation</i>				1 Yr
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
<i>Clarke County Industrial Development Authority</i>				4 Yr
Armbrust	Wayne	White Post District; Vice Chair	8/19/2008	10/30/2015
Cochran	Mark	Buckmarsh District	9/17/2013	10/30/2017
Frederickson	Allan	White Post District; Secretary / Treasurer	9/17/2013	10/30/2017
Jones	Paul	Russell District	3/15/2016	10/30/2019
Juday	David	Russell District; Chair	10/21/2014	10/30/2018
Koontz	English	Buckmarsh District	6/16/2015	10/30/2018
Pierce	Rodney	Buckmarsh District	8/19/2008	10/30/2016
Weiss	David S.	BoS - Liaison	1/11/2016	12/31/2016
<i>Clarke County Library Advisory Council</i>				4 Yr
Al-Khalili	Adeela	Buckmarsh District	3/17/2015	4/15/2019
Curran	Christopher	Buckmarsh District	4/16/2013	4/15/2017
Daisley	Shelley	Russell District	5/17/2016	4/15/2020
Daniel	Mary L.C.	BoS - Liaison	1/11/2016	12/31/2016
Dunbar	Kevin	White Post District	4/15/2014	4/15/2018
Foster	Nancy	Russell District	4/19/2016	4/15/2020
Holscher	Dirck	Russell District	4/16/2013	4/15/2017
Kalbian	Maral	Millwood District	2/17/2015	4/15/2019
White	Kenlynne	Berryville District	7/15/2014	4/15/2017
Zinman	Maxine	Russell District	3/17/2015	4/15/2019
<i>Clarke County Litter Committee</i>				1 Yr
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
<i>Clarke County Planning Commission</i>				4 Yr

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			<i>Appt Date</i>	<i>Exp Date</i>
Bouffault	Robina Rich	White Post / Greenway District	3/15/2016	4/30/2020
Buckley	Randy	White Post District	1/23/2014	4/30/2018
Byrd	Barbara J.	BoS - Alternate	1/11/2016	12/31/2016
Caldwell	Anne	Millwood / Chapel District; Vice Chair	4/16/2013	4/30/2017
Daniel	Mary L.C.	BoS - Appointed Member	1/11/2016	12/31/2016
Kreider	Scott	Buckmarsh / Battletown District	3/15/2016	4/30/2020
Kruhm	Doug	Buckmarsh / Battletown District	3/18/2014	4/30/2018
Lee	Francis	Berryville District	5/20/2014	4/30/2018
Malone	Gwendolyn	Berryville District	3/15/2016	4/30/2020
Nelson	Clifford	Russell / Longmarsh District	4/16/2013	4/30/2017
Ohrstrom, II	George	Russell District; Chair	3/17/2015	4/30/2019
Stidham	Brandon	Staff Representative	4/30/2012	
Turkel	Jon	Millwood / Chapel District	3/17/2015	4/30/2019

Clarke County Sanitary Authority

4 Yr

DeArment	Roderick	White Post District, Chair	6/25/2015	1/5/2017
Dunning, Jr.	A.R.	White Post District, Treasurer/Secretary	11/19/2013	1/5/2018
Legge	Michael	Staff Representative		
Mackay-Smith, Jr.	Alexander	White Post District, Vice Chair	1/15/2013	1/5/2017
McKay	Beverly B.	BoS - Liaison	1/11/2016	12/31/2016
Myer	Joseph	Town of Boyce	11/17/2015	1/5/2020
Welliver	Ralph	Berryville District	3/19/2013	6/30/2016

Conservation Easement Authority

3 Yr

Buckley	Randy	White Post District	11/19/2013	12/31/2016
Byrd	Barbara J.	BoS - Appointed Member	1/11/2016	1/11/2016
Engel	Peter	White Post District	11/17/2015	12/31/2018
Jones	Michelle	Millwood / Pine Grove District	2/18/2014	12/31/2016
Ohrstrom, II	George	Russell District; Planning Commission Representative	3/15/2016	4/30/2019
Teetor	Alison	Staff Representative		
Thomas	Walker	Buckmarsh District	11/17/2015	12/31/2018
Wallace	Laure	Millwood District	11/19/2013	12/31/2016

Constitutional Officer

Butts	Helen	Clerk of the Circuit Court	1/1/2016	12/31/2023
Keeler	Sharon	Treasurer	1/1/2016	12/31/2019
Mackall	Suzanne	Commonwealth Attorney	1/1/2016	12/31/2019
Peake	Donna	Commissioner of the Revenue	1/1/2016	12/31/2019
Roper	Anthony	Sheriff	1/1/2016	12/31/2019

County Administrator

Ash	David L.	County Administrator	3/19/1991	
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			<i>Appt Date</i>	<i>Exp Date</i>
<i>Economic Development Advisory Committee</i>				4 Yr
Barb	Jim	Real Estate Rep, Business Owner	11/29/2013	12/31/2017
Conrad	Bryan H.	Agriculture, Fire & Rescue	12/16/2014	12/31/2018
Dunkle	Christy	Town of Berryville Representative	1/1/2016	12/31/2019
Kraybill	Christina	Berryville District, Business Owner	11/18/2014	12/31/2017
Milleson	John R.	Banking, Finance	12/16/2014	12/31/2018
Myer	Dr. Eric	Agriculture Rep, Business Owner	12/16/2014	12/31/2018
Pritchard	Elizabeth	Hospitality Industry	7/17/2012	8/31/2016
Weiss	David S.	BoS - Appointed Member	1/11/2016	12/31/2016
<i>Fire & EMS Commission</i>				
Armacost, Jr.	Van	Volunteer Association / Fire Issues / John H. Enders VFC	11/17/2015	8/31/2017
Conrad	Bryan H.	Citizen-at-large	9/1/2015	8/31/2019
Davis	Frank	Staff Representative	9/1/2014	
Hoff	Matt	Volunteer Association / EMS Issues / Boyce VFC	11/17/2015	8/31/2016
Leffel	Elizabeth	Chair; Citizen-at-large	9/1/2014	8/31/2016
Roper	Anthony	Sheriff	1/1/2016	12/31/2019
Wallace	Laure	Citizen-at-large	9/1/2014	8/31/2017
Weiss	David S.	BoS - Representative	1/11/2016	12/31/2016
<i>Handley Regional Library Board</i>				4 Yr
Myer	Tamara	Town of Boyce	8/20/2013	11/30/2017
<i>Joint Administrative Services Board</i>				Open-End
Ash	David L.	County Administrator	12/22/1993	
Bishop	Chuck	School Superintendent	7/1/2014	
Judge	Tom	Staff Representative	2/14/1994	
Keeler	Sharon	Treasurer	3/12/2005	
McKay	Beverly B.	BoS - Alternate	1/11/2016	12/31/2016
Schutte	Charles	School Board Representative	1/8/2012	
Weiss	David S.	BoS - Appointed Member	1/20/2015	12/31/2015
<i>Legislative Liaison and High Growth Coalition</i>				1 Yr
Daniel	Mary L.C.	BoS - Liaison	1/11/2016	12/31/2016
<i>Lord Fairfax Community College Board</i>				4 Yr
Daniel	William	Berryville District	7/1/2012	6/30/2016
<i>Lord Fairfax Emergency Medical Services Council</i>				3 Yr
Burns	Jason	Career Representative; Buckmarsh District	4/21/2015	6/30/2018

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			<i>Appt Date</i>	<i>Exp Date</i>
Conrad	Bryan H.	Volunteer Representative; White Post District	6/17/2014	6/30/2017
Stidham	Angela	Medical Professional; White Post District	9/17/2013	6/30/2016
<i>Northern Shenandoah Valley Regional Commission</i>				1 Yr
Daniel	Mary L.C.	BoS - Alternate	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Appointed Member	1/11/2016	12/31/2016
Stidham	Brandon	Citizen Representative [Planning Director]	4/19/2016	1/31/2019
<i>Northwest Regional Adult Drug Treatment Court Advisory Committee</i>				Open End
Byrd	Barbara J.	Russell District	5/17/2016	
<i>Northwestern Community Services Board</i>				4 Yr
Brown	Audrey	White Post District	11/17/2015	12/31/2017
Harris	Celie	Millwood District	11/17/2015	12/31/2018
<i>Northwestern Regional Jail Authority</i>				1 Yr
Ash	David L.	BoS - Appointed Member	1/11/2016	12/31/2016
Byrd	Barbara J.	BoS - Liaison - Alternate	1/11/2016	12/31/2016
Roper	Anthony	Sheriff	1/1/2016	12/31/2019
Wyatt	Jimmy	Millwood District	11/17/2015	12/31/2019
<i>Northwestern Regional Juvenile Detention Center Commission</i>				1 Yr
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
Wyatt	Jimmy	Millwood District	1/15/2013	12/20/2016
<i>Old Dominion Alcohol Safety Action Policy Board & Division of Court Services</i>				3 Yr
Roper	Anthony	Sheriff	11/19/2013	12/31/2016
<i>Old Dominion Community Criminal Justice Board</i>				3 Yr
Roper	Anthony	Sheriff	11/19/2013	12/31/2016
<i>Our Health</i>				3 Yr
Shipe	Diane	Buckmarsh District	4/16/2013	3/15/2016
<i>Parks & Recreation Advisory Board</i>				1 Yr
Catlett	Terri T.	BoS - Liaison	1/11/2016	12/31/2016
Heflin	Dennis	White Post District	1/15/2013	12/31/2016
Huff	Ronnie	Town of Berryville Representative	1/1/2016	12/31/2019
Jones	Paul	Russell District; At Large	12/16/2014	12/31/2018
Lichliter	Gary	Russell District	1/15/2013	12/31/2016
Rhodes	Emily	Buckmarsh District	11/17/2015	12/31/2019
Sheetz	Daniel A.	Berryville District	11/19/2013	12/31/2017
Smith	Tracy	Millwood District	3/15/2016	12/31/2017

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			<i>Appt Date</i>	<i>Exp Date</i>
Trenary	Randy	School Superintendent Designee	10/24/2013	
Wisecarver	Steve	Appointed by Town of Boyce	11/5/2013	12/31/2017
<i>People Inc. of Virginia</i>				3 Yr
Hillerson	Coleen	Clarke County Rep Board of Directors	6/18/2013	7/31/2016
<i>Regional Airport Authority</i>				1 Yr
Ash	David L.	BoS - Alternate	1/11/2016	12/31/2016
Crawford	John	Buckmarsh District	7/17/2012	6/30/2016
McKay	Beverly B.	BoS - Alternate	1/11/2016	12/31/2016
<i>Shenandoah Area Agency on Aging, Inc.</i>				4 Yr
Bouffault	Robina Rich	White Post District	10/21/2014	9/30/2018
<i>Shenandoah Valley Chief Local Elected Officials Consortium</i>				
Ash	David L.	BoS Designee for Chief Elected Official		
<i>Shenandoah Valley Workforce Investment Board</i>				4 Yr
James	Patricia	Buckmarsh District	9/17/2013	6/30/2017
<i>Towns and Villages: Berryville</i>				1 Yr
Byrd	Barbara J.	BoS - Liaison	1/11/2016	12/31/2016
Daniel	Mary L.C.	BoS - Liaison - Alternate	1/11/2016	12/31/2016
<i>Towns and Villages: Boyce</i>				1 Yr
Catlett	Terri T.	BoS - Liaison	1/11/2016	12/31/2016
McKay	Beverly B.	BoS - Liaison	1/11/2016	12/31/2016
<i>Towns and Villages: Millwood</i>				1 Yr
Catlett	Terri T.	BoS - Liaison	1/11/2016	12/31/2016
<i>Towns and Villages: Pine Grove</i>				1 Yr
Catlett	Terri T.	Bos - Liaison	1/11/2016	12/31/2016
Weiss	David S.	BoS - Liaison	1/11/2016	12/31/2016
<i>Towns and Villages: White Post</i>				1 Yr
McKay	Beverly B.	Bos - Liaison	1/11/2016	12/31/2016
<i>Warren-Clarke County Microenterprise Assistance Program Management Team</i>				2 Yr
Blakeslee	Steve	County Representative	9/18/2012	
Dunkle	Christy	Town of Berryville Representative	9/18/2012	
Greene	Laurel	Town of Boyce Representative	9/18/2012	
Koontz	English	County Representative	2/17/2015	12/30/2016
McIntosh	Charles	County Representative	9/18/2012	
Myer	Dr. Eric	Designated Alternate	9/18/2012	

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			<i>Appt Date</i>	<i>Exp Date</i>
Stidham	Brandon	County Representative	9/18/2012	



Board of Supervisors Work Session Agenda

Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611

June 13, 2016 10:00 AM

Item

No. Description

- A. Rural Broadband Briefing by Sandy Terry
- B. Habitat for Humanity Update by Matthew T. Peterson
- C. 2016 FOIA Legislation Update by David Ash
- D. Reminder: Statements of Economic Interest for the period November 1, 2016 thru April 30, 2016 due in County Administration by close of business Wednesday, June 15, 2016.
- E. Closed Session Pursuant to §2.2-3711-A5 Discussion of unannounced business location and §2.2-3711-A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel – consultation with Robert Mitchell, County Attorney

To convene a closed session, a member of the Board of Supervisors should:

“Move to convene a closed session pursuant to Section (see section numbers above), of the Code of Virginia, as amended, to discuss (identify to extent possible).”

To reconvene in public session after a closed session, the Board of Supervisors should readmit the public and only then a member of the Board should:

“Move to reconvene in open session.” With the vote taken immediately thereafter.

Next, a member of the Board should:

“Move to certify that to the best of the member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under Chapter 2.2-3700, et sec, of the Code of Virginia, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Board.”



Habitat for Humanity®
of Winchester - Frederick County

At A Glance

Mission Statement:

Habitat for Humanity of Winchester-Frederick County (HFHWFC) is a Christian ministry that mobilizes community resources and trusted partners to enhance people's lives by building and renovating homes.

11% of Virginians live in poverty.

18% of Frederick County's total poverty percentage is made up of children & the elderly.

Almost 24% of residents in Winchester, Virginia live at or below the federal poverty level.

These individuals are paying over **2/3** of their monthly income on housing.

Average rent per month for a 2-bedroom unit: **\$900**



source: www.habitat.org, www.poverty.org, www.habitat.org

Affordable rent for low-income households is **\$490** per month.

Decent, Affordable Housing is Transformative.



100% of donated funds go to the mission of alleviating substandard housing in our area



200+ men, women & children have gained the stability of a HFHWFC home of their own since 1997



76% of HFHWFC's partner families noted educational advancements for themselves & their children



\$35,000 in annual tax revenue is injected into the economy by HFHWFC's home-ownership program



Millions in spending has funneled back into the local economy by constructing 55 homes since 1997

Almost **30%** of local minimum wage workers are living in substandard housing. Partnering with Habitat for Humanity of Winchester-Frederick County is investing in the livelihood of your neighborhood.

Together, let's bring hope home for our community in 2014.



Pilot Program Description

Habitat for Humanity's *Critical Home Repair Program* provides urgent and major home repairs to prevent homeowners from suffering injury and falls, accidents or having to move out of their homes.

Low cost home repairs can be made through an interest-free loan and may include:

- Home Weatherization- to be more energy efficiency
- Home Preservation - repairs to flooring, plumbing, electric, and roof
- Critical Home Repairs – serious repair issues and home structural problems

An example of home-owner requirements are: they must have property taxes paid in full, are not in danger of a foreclosure on their home, homeowner must own and live in the home, tax assessment building value cannot exceed \$100,000.

Other home repair work may include:

- Fixing broken windows
- Ramps or other accessibility features
- Landscaping
- Roof repair
- Floor repair
- Plumbing
- Electrical
- Other health and safety home repairs

The *Critical Home Repair Program* promotes safe and well-maintained homes along with pride and dignity. Improvements to the appearance of the neighborhood also encourage a stronger community.

"Falls are a leading cause of injury and death. Each year one in three adults over the age of 65 falls. Half of falls happens at home."
-Source: Centers for Disease Control, news14.com

The Economic Impact of Habitat has in Winchester-Frederick County



A snapshot of the economic impact Habitat for Humanity of Winchester-Frederick County (HFHWFC) has had upon the local economy from 2006-2012 (published in 2013).

Executive Summary

This report presents the economic impact Habitat for Humanity of Winchester-Frederick County (HFHWFC) has had over a seven-year period on the city of Winchester and Frederick County, located in the northern geographic area of Virginia. HFHWFC is a non-profit Christian ministry that mobilizes community resources and trusted partners to enhance people's lives by building and renovating homes. Since 1997, HFHWFC has provided 61 families with decent, affordable housing —benefiting at least 200 family members. Through its home construction, renovation, and repair activities, HFHWFC generates social and economic benefits within the Winchester-Frederick County community, fostering civic engagement and enhancing the vitality of the area's economy.

The economic impact resulting from HFHWFC's Affiliate operations and spending on home construction activities include increases in: the flow of capital into the local economy, job creation and support, property values, and tax revenue. Major findings related to HFHWFC's economic impact during the 2006-2012 years include the following:

- HFHWFC built 30 homes between 2006-2012. Together, the spending associated with these building projects has totaled **almost \$5,000,000 in direct spending**. The U.S Department of Commerce Bureau of Economic Analysis estimates that each dollar spent on construction in the Winchester MSA turns-over 1.73 times within the local economy. Multiplying our affiliate's total spending with this economic figure, HFHWFC has contributed **nearly \$8,000,000 to the local economy over seven years**.
- In total, HFHWFC has added **roughly \$3,000,000 in property values** and generates **roughly \$35,000.00 in real-estate tax revenue annually**.
- Additionally, during 2006-2012, HFHWFC ReStore has generated **approximately \$112,000 in sales tax revenue**.
- The estimated value of a Habitat for Humanity volunteer hour in the Commonwealth of Virginia is **\$24.64**. Between 2006-2012, volunteers contributed a total of **51,513 hours** to HFHWFC projects with an **estimated value of the volunteer labor of \$1,269,000**.
- HFHWFC Partner Families also contributed **7,263 "Sweat Equity" hours** during this time with an **estimated total value of \$179,000**.

Habitat for Humanity of Winchester-Frederick County is extremely proud of these positive contributions to the local economy.

To view a complete Economic Impact Analysis Report visit www.habitatwfc.org. We are currently in the process of updating the report and will have a new version published in July 2016.

Beneficial impacts of homeownership: A research summary



EBRA MILUSTEIN

Homeownership leads to:



Increases in:

- Graduation rates.
- Children's good health.
- Net family wealth.



Decreases in:

- Children's behavioral problems.
- Reliance on government assistance.
- Asthma.

Homeownership is a crucial foundation for helping low-income families find a path out of poverty. When they move out of substandard housing and into simple, decent, affordable homes, homeowners and their families frequently improve their health, educational attainment, safety and personal wealth.

"A quality home is more than just a roof and walls," said Renée Glover, chair of Habitat for Humanity International's board of directors. "It provides homeowners with feelings of stability and pride, as well as generating measurable results such as decreased doctor visits and increased high school graduation rates.

"Academic research and surveys point to one inescapable conclusion: that owning one's home enhances quality of life in a variety of specific, verifiable ways. This is true whether the homes are associated with Habitat for Humanity or not."

The U.S. Department of Housing and Urban Development says studies have shown that "homeowners accumulate wealth

as the investment in their homes grows, enjoy better living conditions, are often more involved in their communities, and have children who tend on average to do better in school and are less likely to become involved with crime.”

The research is clear:

Homeownership leads to better health.

- “A safe, decent, affordable home is like a vaccine,” Dr. Megan Sandel of the Boston University School of Medicine testified to Congress in 2007. “It literally prevents disease. A safe home can prevent mental health and developmental problems, a decent home may prevent asthma or lead poisoning, and an affordable home can prevent stunted growth and unnecessary hospitalizations.”
- Poor housing conditions contribute to asthma and other physical illnesses. Decent, affordable housing can help children with asthma address their health needs, according to a report by the Center for Housing Policy.
- A national survey of Habitat homeowners found that 74 percent said their families’ overall health had improved since moving into their home.

Homeownership leads to greater educational achievements.

- Children of homeowners are significantly more likely to stay in school until age 17 than children of renters, especially in low-income households, according to a study in the Journal of Urban Economics.
- Children in homeownership families outperform children in renting families in both math and reading achievement tests, even when other factors are the same. These children will have fewer behavioral problems, higher educational attainment and greater future earnings, according to a study by an Ohio State University economist.
- A 2011 survey of U.S. Habitat homeowners by the University of Southern Indiana found that 57 percent of adults in the households were furthering their education.
- The graduation rate for children of homeowners is 19 percent higher than for renters, and they are twice as likely to acquire some postsecondary education, according to a study in a journal published by the Federal Reserve Bank of New York.

Homeownership provides better security and safety.

- A study of violent crime in New York City suburbs found that homeownership status significantly reduced a household’s incidence of crime. Another study showed that homeowners have significantly less risk of being subject to a violent assault.
- According to a survey of more than 400 Habitat homeowners in Minnesota conducted by Wilder Research of St. Paul,



83 percent consider their children safer after the family’s move into a Habitat home.

- A 2011 national survey of Habitat homeowners by the University of Southern Indiana found that 84 percent felt safe in their neighborhoods.

Homeownership helps generate wealth building and a pathway out of poverty.

- “For most buyers, homeownership leads to wealth creation,” stated a report in the Journal of Housing Studies. “As home equity increases, some homeowners may decide that they have the financial resources to secure additional education for themselves or their children.”
- “The median net wealth of low-income homeowners is dramatically higher than the median net wealth of low-income renters,” according to a 2005 report by the Joint Center for Housing Studies.
- The Minnesota survey of Habitat homeowners found that 53 percent said they have more money since moving into their Habitat home; two-thirds are more confident about their ability to fund their children’s college education; and almost 40 percent said they pay less in housing costs. Use of government assistance also declined notably.
- A 2014 study by the Federal Reserve Bank of Boston of homes with a student about to enter college found that a modest increase in home value for homeowners led to an increase in the child’s earnings later in life, while an increase in a property’s value for renters led to a decrease in the child’s earnings.

The benefits of homeownership are indisputable. Since 1976, Habitat for Humanity has helped more than 1 million families worldwide with housing solutions leading to decent, affordable shelter. That represents about 5 million people. We will continue to work toward a world where everyone has a decent place to live, and where measurable improvements in health, education, security and wealth generation are enjoyed by more and more homeowners. ■



County of Clarke
Lora B. Walburn, County Administration

2016 FOIA Legislative Update

To: Clarke County Board of Supervisors

Date: June 13, 2016

Several changes made to the Freedom of Information Act, § 2.2-3700 et seq. of the Code of Virginia, during the 2016 General Assembly necessitated an update to Clarke County Administration policy "PD-121101-04 General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act" created November 28, 2006, added to the County website in 2006. Revision No. 2 dated November 15, 2009 currently posted and located in the website footer. Of note, Clarke's initial FOIA policy was created August 20, 1999 titled "Public Records Disclosure and Copy Policy." The following information is provided for information only – no action required from the Board of Supervisors.

PD-121101-04 Revision 3:

- Add to County of Clarke "General Government Reporting to County Administrator"
- Add to County of Clarke "General Government Reporting to the County Administrator" Item 4 and Renumber 4 to 5
- Add to section titled "Costs" new first bullet
- Add the following new sections:
 - Departments, and Boards/Committees/Commissions
 - Types of Records
 - Policy regarding Use of Exemptions
 - FOIA Requests for Constitutional Offices / County Agencies Contact Information

For information on the 2016 Session, see the 2016 FOIA Legislative Update from Virginia Freedom of Information Advisory Council in the June 13 packet.

www.clarkecounty.gov

101 Chalmers Court, Suite B
Berryville, VA 22611

Telephone: [540] 955-5175

This institution is an equal opportunity provider and employer.

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

Distribution: Department Heads, County Website

Record of Revision

Revision No.	Revision Date	Description	Final Approval
New	11/28/2006	New Document	
1	7/15/2008	Change title to Exemptions and add reference to (§ 2.2-3705.3 (10)) and (§ 2.2-3705.7 (2)); Add reference to PD12110-03 General Government Public Records Disclosure and Copy Policy; Info-map and number document.	
2	11/5/2009	Update County Administration contact information. Update FOIA Council email address.	
3	07/01/2016	Add to County of Clarke "General Government Reporting to County Administrator"; Add to The County of Clarke General Government Reporting to the County Administrator Item 4 and Renumber 4 to 5; Costs Add new first bullet; Add Section - Departments, Boards/Committees/Commissions; Add Section - Types of Records; Add Section - Policy regarding Use of Exemptions; Add Section - FOIA Requests for Constitutional Offices / County Agencies Contact Information	

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

Purpose and Scope

The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

Your FOIA Rights

- You have the right to request to inspect or receive copies of public records, or both.
 - You have the right to request that any charges for the requested records be estimated in advance.
 - If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.
-

Making a Request for records from The County of Clarke General Government Reporting to Office of the County Administrator

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
 - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if
-

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

you elect to not put it in writing.

- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.
 - Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of the County, nor does it require the County to create a record that does not exist.
 - You may choose to receive electronic records in any format used by the County of Clarke in the regular course of business.
 - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records
 - If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.
 - To request records from County of Clarke you may direct your request to Clarke County Administration, Lora B. Walburn. She can be reached at 101 Chalmers Court, Suite B, Berryville, VA 22611, 540-955-5175, 540-955-5180 Fax, and lwalburn@clarkecounty.gov.
 - You may also contact her with questions you have concerning requesting records from all departments under the direct responsibility of the County Administrator.
 - In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiacouncil@dls.virginia.gov, or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.
-

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

**The County of Clarke
General Government
Reporting to the
County Administrator
Responsibilities in
Responding to Your
Request**

- The County of Clarke must respond to your request within five working days of receiving it.
 - "Day One" is considered the day after your request is received.
 - The five-day period does not include weekends or holidays.
 - The reason behind your request for public records is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow the County to ask you to provide your name and legal address.
 - FOIA requires that the County make one of the following responses to your request within the five-day time period:
 1. We provide you with the records that you have requested in their entirety.
 2. We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 3. We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 4. We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
-

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

5. If it is practically impossible for the County of Clarke to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven [7] additional working days to respond to your request, giving us a total of 12 working days to respond to your request.

- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

Costs

- ***A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records.***

No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body.

Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.

All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia.

- You may have to pay for the records that you request. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
 - If we estimate that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The
-

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.

- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, the County of Clarke may require payment of the past-due bill before it will respond to your new FOIA request.

***Departments and
Boards / Committees /
Commissions***

The following is a listing of departments and boards, committees, commission and authorities with records held by Clarke County General Government reporting to the County Administrator :

- ***Departments:***
 - ***Animal Shelter***
 - ***Building***
 - ***County Administration***
 - ***Emergency Management / Medical Services***
 - ***Geographic Information Systems***
 - ***Information Technology***
 - ***Maintenance***
 - ***Parks and Recreation***
 - ***Planning***
 - ***Zoning***
- ***Board / Committees / Commissions***
 - ***Agricultural & Forestal District Advisory Committee***
 - ***BCCGC Joint Building Committee***
 - ***Berryville Area Development Authority***
 - ***Board of Equalization***

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

- **Board of Supervisors**
 - **Board of Well and Septic Appeals**
 - **Board of Zoning Appeals**
 - **Clarke County Historic Preservation Commission**
 - **Clarke County Industrial Development Authority**
 - **Conservation Easement Authority**
 - **Economic Development Advisory Committee**
 - **Fire & EMS Commission**
 - **Parks & Recreation Advisory Board**
 - **Planning Commission**
-

Types of Records

The following is a general description of some of the types of records held by the listed departments and boards / committees / commissions:

- **Agendas / Packets**
 - **Animal adoption, intake**
 - **Certificates of Occupancy**
 - **Complaints**
 - **Correspondence**
 - **Minutes**
 - **Ordinances / Code of Clarke County, Virginia**
 - **Permits: Building, Special Event, Special Use, etc.**
 - **Personnel records**
 - **Programs**
 - **Project files**
 - **Public hearing notices**
 - **Reports: Annual, Monthly, Incident, Project, etc.**
 - **Resolutions**
 - **Site Plans**
 - **Statement of Economic Interest**
 - **Work Orders**
-

General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act

Commonly Used Exemptions

Some requested records could be exempt. The Code of Virginia allows any public body to withhold certain records from public disclosure. Some examples:

- Names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints made to a local governing body. (§ 2.2-3705.3 (10))
 - Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
 - Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
 - Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
 - Vendor proprietary information (§ 2.2-3705.1 (6))
 - Working papers and correspondence of the County Administrator (§ 2.2-3705.7 (2))
-

Policy Regarding the Use of Exemptions

- ***The general policy is to invoke the personnel records exemption in those instances where it applies in order to protect the privacy of employees and officials of Clarke County general government reporting to the County Administrator.***
 - ***The general policy is to invoke the contract negotiations exemption whenever it applies in order to protect bargaining position and negotiating strategy.***
-

FOIA Requests for Constitutional Offices / County Agencies Contact Information

Direct inquiries to:

Clarke County Circuit Court Clerk: Helen Butts
102 North Church Street, 1st Floor, Berryville, VA 22611
[540] 955-5116; hbutts@courts.state.va.us

Clarke County Commissioner of the Revenue: Donna Peake
101 Chalmers Court, Suite B, 1st Floor, Berryville, VA 22611
[540] 955-5187; dpeake@clarkecounty.gov

General Government Policy: The Rights of Requesters and the Responsibilities of the County of
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Clarke County Commonwealth Attorney: Suni Mackall
102 North Church Street, 2nd Floor, Berryville, VA 22611
[540] 955-5120; crhodes@clarkecounty.gov

Clarke County Sheriff's Office: Anthony Roper
100 North Church Street, Berryville, VA 22611
[540] 955-5152; jrose@clarkecounty.gov

Clarke County Treasurer: Sharon Keeler
101 Chalmers Court, Suite B, 1st Floor, Berryville, VA 22611
[540] 955-5187; treasurer@clarkecounty.gov

Clarke County General District Court: Melanie Hoffman
104 North Church Street, 1st Floor, Berryville, VA 22611
[540] 955-5128

Clarke County Juvenile & Domestic Relations Court: Sherri Allen
104 North Church Street, 2nd Floor, Berryville, VA 22611
[540] 955-5136

Clarke County Public Schools: Chuck Bishop
309 West Main Street, Berryville, VA 22611
[540] 955-6100; weirr@clarke.k12.va.us

Clarke County Department of Social Services: Angie Jones
311 East Main Street, Berryville, VA 22611
[540] 955-3700

General Registrar and Director of Elections: Barbara Bosserman
101 Chalmers Court Suite B, 2nd Floor, Berryville, VA 22611
[540] 955-5168; vote@clarkecounty.gov

**Joint Administrative Services [Accounts, Purchasing, Clarke
County Sanitary Authority]: Thomas Judge**
524 Westwood Road, Berryville, VA 22611
[540] 955-6172; tjudge@clarkecounty.gov

Related Documents

- PD12110-03 General Government Public Records Disclosure and Copy Policy

End of document.



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

COMMONWEALTH OF VIRGINIA

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Senator Richard H. Stuart, Vice-Chair

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foiacouncil@leg.state.va.us

General Assembly Building ~ 201 North 9th Street, Second Floor ~ Richmond, Virginia 23219
804-225-3056 ~ (Toll Free) 1-866-448-4100 ~ (Fax) 804-371-0169 ~ <http://foiacouncil.dls.virginia.gov>

May 23, 2015

2016 FOIA LEGISLATIVE UPDATE

NOTE: Unless otherwise stated, the changes in the law described herein will take effect July 1, 2016.

I. Introduction

The General Assembly passed a total of 16 bills amending the Virginia Freedom of Information Act (FOIA) during the 2016 Session. Note that while the Virginia Freedom of Information Advisory Council (the Council) heard several proposals in 2015 as part of its annual Legislative Preview, the Council did not vote to recommend any specific legislation this year. The Council in 2015 completed the second year of the three-year study of FOIA directed by House Joint Resolution No. 96 (2014). As part of that study the Council has stated that it will recommend omnibus legislation to the 2017 Session of the General Assembly incorporating all of its recommend changes, rather than recommending individual pieces of legislation each year.

Three bills create two new sections in FOIA and amend existing provisions as follows:

- Reverses the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell*, by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law. Further, the bill states that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under FOIA or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed. The bill defines the term "information" and provides that it is declaratory of the law as it existed prior to the September 17, 2015, decision of the Supreme Court of Virginia in the case of the *Department of Corrections v. Surovell*. The bill also reverses that part of the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by providing that in a

FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. The bill contains technical amendments. HB 817 and SB 494, adding new § 2.2-3704.01 and amending §§ 2.2-3701, 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3711, and 2.2-3713;

- Requires certain local public bodies to post a FOIA rights and responsibilities document on their respective public government website. The bill also requires all state public bodies created in the executive branch of state government, including state authorities, and all local public bodies that are subject to FOIA to designate and publicly identify one or more FOIA officers whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of FOIA. The bill sets out where contact information for the designated FOIA officer is to be posted. The bill requires that any such FOIA officer shall possess specific knowledge of the provisions of FOIA and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council. HB 818 adding new § 2.2-3704.2 and amending § 2.2-3704.1.

Three bills add three new records exemptions in FOIA as follows:

- Excludes from the Virginia Freedom of Information Act any records received by the Department of Criminal Justice Services pursuant to the operation of or for the purposes of evaluating threat assessment teams and oversight committees, school safety audits, and school crisis, emergency management, and medical emergency response plans of public schools and threat assessment teams of public institutions of higher education, to the extent that such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components. The bill allows criminal record, juvenile record, and health record information to be disseminated to members of a threat assessment team established by a local school board. Current law allows only threat assessment teams established by an institution of higher education to access such information. The bill provides that no member of a threat assessment team shall redisclose any such information or use the information beyond the purpose for which the disclosure was made. HB 1013 adding a new exemption in § 2.2-3705.2 and amending existing provisions of § 2.2-3705.4;
- Excludes records reflecting the substance of meetings in which individual sexual assault cases are discussed by a sexual assault response team from mandatory disclosure under the Virginia Freedom of Information Act. The findings of a sexual assault response team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals. HB 1016 adding a new exemption in § 2.2-3705.7;
- Establishes the Virginia Research Investment Committee (the Committee) to administer grants and loans from the Virginia Research Investment Fund (the

Fund), created by this bill, to promote research, development, and commercialization in the Commonwealth. The bill provides that the State Council of Higher Education for Virginia (SCHEV) will establish guidelines related to administration and award of grants from the Fund, in consultation with the Committee. Upon receipt of completed grant applications, SCHEV will forward them to an entity with recognized science and technology expertise to review and rank the applications. Applications will then be forwarded to the Committee to make a final decision about the award of grants and funds. The bill contains corresponding exemptions for certain grant or loan application records and for the discussion or consideration of such records in closed meetings. HB 1343 adding new exemptions in §§ 2.2-3705.6 and 2.2-3711.

Three bills add two new meetings exemptions in FOIA as follows:

- Establishes the Virginia Growth and Opportunity Board to administer grants from the Virginia Growth and Opportunity Fund for regional economic and workforce development projects. The bill provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-sector growth, competitiveness, and workforce development. The bill creates a corresponding meeting exemption for the discussion or development of such grant proposals by a regional council. HB 834 and SB 449 amending 2.2-3711;
- Establishes the Virginia Research Investment Committee (the Committee) to administer grants and loans from the Virginia Research Investment Fund (the Fund), created by this bill, to promote research, development, and commercialization in the Commonwealth. The bill provides that the State Council of Higher Education for Virginia (SCHEV) will establish guidelines related to administration and award of grants from the Fund, in consultation with the Committee. Upon receipt of completed grant applications, SCHEV will forward them to an entity with recognized science and technology expertise to review and rank the applications. Applications will then be forwarded to the Committee to make a final decision about the award of grants and funds. The bill contains corresponding exemptions for certain grant or loan application records and for the discussion or consideration of such records in closed meetings. HB 1343 adding new exemptions in §§ 2.2-3705.6 and 2.2-3711.

Eight bills amend existing provisions of FOIA as follows:

- Provides that the personnel, working papers, and correspondence record exemption shall not be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor. The bill further provides that the resumes and applications for appointment submitted by persons who are appointed by the Governor shall be available to the public upon request. The bill provides that its provisions apply to persons appointed by the

Governor on or after July 1, 2016. The bill contains technical amendments. HB 220 amending §§ 2.2-3705.1 and 2.2-3705.7;

- Makes various changes to the Board of Directors (the Board) of the BVU Authority (the Authority) and alters the methods of their appointment and their powers and duties. The bill also amends the powers and duties of the Authority. Among other changes, the bill eliminates several Authority-related records and open meeting exemptions from the Freedom of Information Act. The bill also contains an emergency clause. HB 1255 and SB 329 amending §§ 2.2-3705.6 and 2.2-3711. [NOTE: Due to the emergency clause, both bills were enacted effective April 8, 2016.]
- Clarifies that the FOIA exclusion for noncriminal incidents and reports applies to any public body that engages in criminal law-enforcement activities and does not rely on the definition of "noncriminal incidents records" in § 15.2-1722 of the Code of Virginia. The bill addresses a decision of the Virginia Supreme Court in *Fitzgerald v. Loudoun County Sheriff's Office*, which held that a noncriminal record must be a compilation in order for the exemption for noncriminal records to apply. The bill was also the subject of a Virginia Freedom of Information Advisory Council opinion (AO-08-15) concerning this exemption, which highlighted the need for clarification of this exemption based on the Fitzgerald holding. HB 1318 amending § 2.2-3706;
- Clarifies that nothing in the personnel exemption in the open meetings law of FOIA shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively. SB 493 amending § 2.2-3711;
- Amends an existing exemption to exclude from mandatory disclosure records of an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application. SB 564 amending § 2.2-3705.3;
- Defines the term "critical infrastructure information" for purposes of FOIA. The bill also provides that any public body receiving a request for such records shall notify the Secretary of Public Safety and Homeland Security or his designee of the request and the response made by the public body. The bill contains an emergency clause. SB 645 amending § 2.2-3705.2. [NOTE: Due to the emergency clause, this bill was enacted effective April 6, 2016.];
- Clarifies public access to noncriminal records maintained by public bodies engaged in criminal law-enforcement activities. The bill reverses an April 2015 Virginia Supreme Court decision in *Fitzgerald v. Loudoun County Sheriff's Office*, which held that a noncriminal record must be a compilation in order for the exemption for noncriminal records to apply. The bill was also the subject of a Virginia Freedom of Information Advisory Council opinion (AO-08-15)

concerning this exemption, which highlighted the need for clarification of this exemption based on the *Fitzgerald* holding. SB 727 amending § 2.2-3706.

Section II of this update presents a brief overview of amendments to FOIA section by section in order to provide context and organization to the numerous bills. Section III presents a brief overview of other access-related legislation passed during the 2016 Session of the General Assembly.

For more specific information on the particulars of each bill, please see the bill itself. Unless otherwise indicated, the changes will become effective July 1, 2016.

II. Amendments to the Freedom of Information Act

§ 2.2-3701 Definitions.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. Reverses the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell*, by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law. Further, the bill states that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under FOIA or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed. The bill defines the term "information" and provides that it is declaratory of the law as is it existed prior to the September 17, 2015, decision of the Supreme Court of Virginia in the case of the *Department of Corrections v. Surovell*. The bill also reverses that part of the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by providing that in a FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. The bill contains technical amendments. HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

§ 2.2-3704.01. Records containing both excluded and nonexcluded information; duty to redact.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716). [NOTE: Section 2.2-3704.01 is a new section added by HB 817 and SB 494.]

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state public bodies; assistance by the Freedom of Information Advisory Council.

Virginia Freedom of Information Act (FOIA); designation of FOIA officer; posting of FOIA rights and responsibilities. Requires certain local public bodies to post a FOIA rights and responsibilities document on their respective public government website. The bill also requires all state public bodies created in the executive branch of state government, including state authorities, and all local public bodies that are subject to FOIA to designate and publicly identify one or more FOIA officers whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of FOIA. The bill sets out where contact information for the designated FOIA officer is to be posted. The bill requires that any such FOIA officer shall possess specific knowledge of the provisions of FOIA and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council. HB 818 (2016 Acts of Assembly, c. 748).

§ 2.2-3704.2. Public bodies to designate FOIA officer.

Virginia Freedom of Information Act (FOIA); designation of FOIA officer; posting of FOIA rights and responsibilities. *See summary under § 2.2-3704.1, supra.* HB 818 (2016 Acts of Assembly, c. 748). [NOTE: Section 2.2-3704.2 is a new section added by HB 818.]

§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.

Virginia Freedom of Information Act; public access to resumes and other information related to gubernatorial appointees. Provides that the personnel, working papers, and correspondence record exemption shall not be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor. The bill further provides that the resumes and applications for appointment submitted by persons who are appointed by the Governor shall be available to the public upon request. The bill provides that its provisions apply to persons appointed by the Governor on or after July 1, 2016. The bill contains technical amendments. HB 220 (2016 Acts of Assembly, c. 729).

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. See summary under § 2.2-3701, *supra*. HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. See summary under § 2.2-3701, *supra*. HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

Threat assessment teams; local school boards. Excludes from the Virginia Freedom of Information Act any records received by the Department of Criminal Justice Services pursuant to the operation of or for the purposes of evaluating threat assessment teams and oversight committees, school safety audits, and school crisis, emergency management, and medical emergency response plans of public schools and threat assessment teams of public institutions of higher education, to the extent that such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components. The bill allows criminal record, juvenile record, and health record information to be disseminated to members of a threat assessment team established by a local school board. Current law allows only threat assessment teams established by an institution of higher education to access such information. The bill provides that no member of a threat assessment team shall redisclose any such information or use the information beyond the purpose for which the disclosure was made. HB 1013 (2016 Acts of Assembly, c. 554).

Virginia Freedom of Information Act (FOIA); exempt records concerning critical infrastructure information. Defines the term "critical infrastructure information" for purposes of FOIA. The bill also provides that any public body receiving a request for such records shall notify the Secretary of Public Safety and Homeland Security or his designee of the request and the response made by the public body. The bill contains an emergency clause. SB 645 (2016 Acts of Assembly, c. 717). [NOTE: Due to the emergency clause, this bill was enacted effective April 6, 2016.]

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. See summary under § 2.2-3701, *supra*. HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

Freedom of Information Act; exclusions for school personnel licensure applications. Excludes records of an application for licensure or renewal of a license for teachers and

other school personnel, including transcripts or other documents submitted in support of an application, from the provisions of the Freedom of Information Act. SB 564 (2016 Acts of Assembly, c. 272).

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

Threat assessment teams; local school boards. *See summary under § 2.2-3705.2, supra.* HB 1013 (2016 Acts of Assembly, c. 554).

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

Virginia Research Investment Committee and Fund established; report. Establishes the Virginia Research Investment Committee (the Committee) to administer grants and loans from the Virginia Research Investment Fund (the Fund), created by this bill, to promote research, development, and commercialization in the Commonwealth. The bill provides that the State Council of Higher Education for Virginia (SCHEV) will establish guidelines related to administration and award of grants from the Fund, in consultation with the Committee. Upon receipt of completed grant applications, SCHEV will forward them to an entity with recognized science and technology expertise to review and rank the applications. Applications will then be forwarded to the Committee to make a final decision about the award of grants and funds. The Committee will be comprised of the Director of SCHEV, who will also serve as chairman, the Secretary of Finance, the staff directors of the House Appropriations and Senate Finance Committees, and three citizen members. The Speaker of the House of Delegates, the Senate Committee on Rules, and the Governor would each appoint one citizen member, to be selected from the

nonlegislative citizen members of the Go Virginia Board if such Board is created by the 2016 Session of the General Assembly and becomes law. Of the moneys appropriated to the Fund, the General Assembly may specifically designate a portion of the moneys to be invested by the Board of the Virginia Retirement System. Only \$4 million of such invested funds may be awarded in any given year, and if the Committee decides to award a loan, such loan must come out of this \$4 million. HB 1343 (2016 Acts of Assembly, c. 775).

BVU Authority; Board powers, officers; broadband; FOIA. Makes various changes to the Board of Directors (the Board) of the BVU Authority (the Authority) and alters the methods of their appointment and their powers and duties. The bill also amends the powers and duties of the Authority. Among other changes, the bill eliminates several Authority-related records and open meeting exemptions from the Freedom of Information Act. The bill also contains an emergency clause. HB 1255 (2016 Acts of Assembly, c. 725) and SB 329 (2016 Acts of Assembly, c. 724). [NOTE: Due to the emergency clause, both bills were enacted effective April 8, 2016.]

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.

Virginia Freedom of Information Act; public access to resumes and other information related to gubernatorial appointees. See summary under § 2.2-3705.1, *supra*. HB 220 (2016 Acts of Assembly, c. 729).

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. See summary under § 2.2-3701, *supra*. HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

Sexual assault response teams; participants; FOIA exclusion. Adds the Title IX coordinator; representatives from the office of student affairs, human resources, and counseling services; and a representative of campus security of any institution of higher education in the jurisdiction to the list of persons invited to participate in the annual meeting of a sexual assault response team. The bill also excludes records reflecting the substance of meetings in which individual sexual assault cases are discussed by a sexual assault response team from mandatory disclosure under the Virginia Freedom of Information Act. The findings of a sexual assault response team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals. HB 1016 (2016 Acts of Assembly, c.550).

§ 2.2-3706. Disclosure of criminal records; limitations.

Virginia Freedom of Information Act (FOIA); noncriminal incidents and reports. Clarifies that the FOIA exclusion for noncriminal incidents and reports applies to any public body that engages in criminal law-enforcement activities and does not rely on the definition of "noncriminal incidents records" in § 15.2-1722 of the Code of Virginia. The

bill addresses a decision of the Virginia Supreme Court in *Fitzgerald v. Loudoun County Sheriff's Office*, which held that a noncriminal record must be a compilation in order for the exemption for noncriminal records to apply. The bill was also the subject of a Virginia Freedom of Information Advisory Council opinion (AO-08-15) concerning this exemption, which highlighted the need for clarification of this exemption based on the *Fitzgerald* holding. HB 1318 (2016 Acts of Assembly, c. 546).

Virginia Freedom of Information Act; public access to noncriminal records. Clarifies public access to noncriminal records maintained by public bodies engaged in criminal law-enforcement activities. The bill reverses an April 2015 Virginia Supreme Court decision in *Fitzgerald v. Loudoun County Sheriff's Office*, which held that a noncriminal record must be a compilation in order for the exemption for noncriminal records to apply. The bill was also the subject of a Virginia Freedom of Information Advisory Council opinion (AO-08-15) concerning this exemption, which highlighted the need for clarification of this exemption based on the *Fitzgerald* holding. SB 727 (2016 Acts of Assembly, c. 184).

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

Virginia Growth and Opportunity Act; report. Establishes the Virginia Growth and Opportunity Board to administer grants from the Virginia Growth and Opportunity Fund for regional economic and workforce development projects. The bill provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-sector growth, competitiveness, and workforce development. A portion of the grant funds will be awarded on a population basis and a portion on a competitive basis. HB 834 (2016 Acts of Assembly, c. 779) and SB 449 (2016 Acts of Assembly, c. 778).

BVU Authority; Board powers, officers; broadband; FOIA. *See summary under § 2.2-3705.6, supra.* HB 1255 (2016 Acts of Assembly, c. 725) and SB 329 (2016 Acts of Assembly, c. 724). [NOTE: Both bills were enacted and took effect on April 8, 2016.]

Virginia Research Investment Committee and Fund established; report. *See summary under § 2.2-3705.6, supra.* HB 1343 (2016 Acts of Assembly, c. 775).

Virginia Freedom of Information Act (FOIA); closed meeting not authorized for discussion of compensation matters for local governing bodies and elected school boards. Clarifies that nothing in the personnel exemption in the open meetings law of FOIA shall be construed to authorize a closed meeting by a local governing body or an

elected school board to discuss compensation matters that affect the membership of such body or board collectively. SB 493 (2016 Acts of Assembly, c. 544).

§ 2.2-3713. Proceedings for enforcement of chapter.

Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. *See summary under § 2.2-3701, supra.* HB 817 (2016 Acts of Assembly, c. 620) and SB 494 (2016 Acts of Assembly, c. 716).

III. Other Access-Related Legislation

Resolutions

Commending the Virginia Coalition for Open Government. House Joint Resolution 91.

Title 2.2 Administration of Government.

Duties and responsibilities of the Virginia Information Technologies Agency; reorganization and recodification. Makes numerous technical or organizational changes to Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 related to the establishment and operation of the Virginia Information Technologies Agency (VITA). The bill does not make substantive changes to VITA's powers and duties. The bill was developed by a staff workgroup led by the Division of Legislative Services pursuant to § 1-6 of the 2015 Appropriation Act to address concerns identified in the Joint Legislative Audit and Review Commission's 2014 Report on Virginia's Information Technology Governance Structure. HB 1064 (2016 Acts of Assembly, c. 296). [NOTE: The bill includes several FOIA-related provisions.]

Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate report of gifts; definition of procurement transaction; technical amendments. Requires the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts to be filed annually. Lobbyists are required to file by July 1 for the preceding 12-month period complete through the last day of April, and persons subject to the conflict of interests acts are required to file on or before January 15. The bill also requires the Governor, Lieutenant Governor, and Attorney General, members of the Governor's Cabinet, and members of the General Assembly to file on or before May 1 a separate report of gifts received during the period beginning January 1 through adjournment sine die of the regular session of the General Assembly. Effective January 1, 2017, the bill removes from the Code the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts and requires the Virginia Conflict of Interest and Ethics Advisory Council (Council) to prescribe the forms to be used to comply with disclosure requirements.

The bill also makes numerous other changes related to lobbyist reporting and the conflict of interests acts, including (i) exempting from the definition of a gift any gift with a value of less than \$20; (ii) providing that the filing of a single disclosure form by a person subject to the conflict of interests acts satisfies the filing requirement for all positions or offices held or sought by such person; (iii) clarifying that lobbying disclosure forms are filed with the Council and are open to public inspection and copying in the office of the Council, and not the Secretary of the Commonwealth; (iv) clarifying that candidates for statewide office, the General Assembly, and constitutional office are required to file a statement of economic interests with the Council; (v) authorizing travel provided to facilitate attendance by a legislator at certain meetings where attendance is approved by the Chairman of the House or Senate Committee on Rules in addition to approval by either committee; (vi) clarifying that gifts to certain members of a lobbyist's family are not considered gifts; (vii) providing that the definition of procurement transaction for purposes of the laws governing lobbyists is limited to those transactions in which the stated or expected value of the contract is \$5 million or more; (viii) providing that records relating to formal advisory opinions or informal advice of the Council shall be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act; (ix) providing that a lobbyist's principal is not required to disclose the name of a legislative or executive official, or a member of his immediate family, who attends a reportable entertainment event if that legislative or executive official reimburses the principal for, or otherwise pays for, his attendance or the attendance of a member of his immediate family at the entertainment event; and (x) authorizes the Council to grant an extension from a filing deadline for good cause. The bill contains an emergency clause that applies to the changes described in clauses (vii) through (x).

Finally, the bill requires that the Supreme Court of Virginia report to the Council by October 1, 2016, on the application of the conflict of interests acts on members of the judiciary and evaluate the feasibility of creating separate provisions that would apply to such member. HB 1362 (2016 Acts of Assembly, c. 773) and SB 692 (2016 Acts of Assembly, c. 774).

Title 8.01 Civil remedies and procedure.

Immunity of persons at public hearing; attorney fees and costs. Allows the award of reasonable attorney fees and costs to any person who has a suit against him dismissed pursuant to immunity provided to him when appearing at a public hearing before the governing body of a locality or other local governmental entity. HB 1117 (2016 Acts of Assembly, c. 239).

Title 12.1 State Corporation Commission

Regulation of water and sewer utilities. Makes water and sewer companies subject to the rules of the State Corporation Commission (SCC) regarding meetings and communications between SCC commissioners and any party, or between commissioners and staff, concerning any fact or issue arising out of a proceeding involving the

regulation of rates, charges, services, or facilities of a utility. The bill requires a public utility to send notice of a proposed rate increase electronically to customers who receive bills electronically. Every public utility providing water or sewer service is required to publish notice of changes in rates, tolls, charges, rules, and regulations at least once in one or more newspapers in circulation in its franchise area. The measure bars the SCC from dispensing with notice requirements applicable to water and sewer companies. HB 611 (2016 Acts of Assembly, c. 283) and SB 85 (2016 Acts of Assembly, c. 191).

Title 15.2 Counties, Cities, and Towns.

Sexual assault response teams; participants; FOIA exclusion. *See summary under § 2.2-3705.7, supra.* HB 1016 (2016 Acts of Assembly, c.550).

BVU Authority; Board powers, officers; broadband; FOIA. *See summary under § 2.2-3705.6, supra.* HB 1255 (2016 Acts of Assembly, c. 725) and SB 329 (2016 Acts of Assembly, c. 724). [NOTE: Both bills were enacted and took effect on April 8, 2016.]

Title 16.1 Courts Not of Records.

Law-enforcement records concerning juveniles; disclosure. Allows the disclosure of law-enforcement records concerning a juvenile who is referred to a court services unit-authorized diversion program. The bill prohibits further disclosure of such records by the diversion program or participants in the program. Law-enforcement officers may prohibit disclosure to protect a criminal investigation or intelligence information. HB 541 (2016 Acts of Assembly, c. 234).

Title 17.1 Courts of Record.

Retention of court records; violent felonies and acts of violence. Requires that the circuit court case files involving a conviction on crimes that are considered to be violent felonies or acts of violence be retained for 50 years or until the sentence term ends, whichever comes later. HB 624 (2016 Acts of Assembly, c. 180).

Title 18.2 Crimes and Offenses Generally.

Cannabidiol oil and THC-A oil; permitting of pharmaceutical processors to manufacture and provide. Authorizes a pharmaceutical processor, after obtaining a permit from the Board of Pharmacy (the Board) and under the supervision of a licensed pharmacist, to manufacture and provide cannabidiol oil and THC-A oil to be used for the treatment of intractable epilepsy. The bill sets limits on the number of permits that the Board may issue and requires that the Board adopt regulations establishing health, safety, and security requirements for permitted processors. The bill provides that only a licensed practitioner of medicine or osteopathy who is a neurologist or who specializes in the treatment of epilepsy may issue a written certification to a patient for the use of cannabidiol oil or THC-A oil. The bill also requires that a practitioner who issues a written certification for cannabidiol oil or THC-A oil, the patient issued such

certification, and, if the patient is a minor or incapacitated, the patient's parent or legal guardian register with the Board. The bill requires further that a pharmaceutical processor shall not provide cannabidiol oil or THC-A oil to a patient or a patient's parent or legal guardian without first verifying that the patient, the patient's parent or legal guardian if the patient is a minor or incapacitated, and the practitioner who issued the written certification have registered with the Board. Finally, the bill provides an affirmative defense for agents and employees of pharmaceutical processors in a prosecution for the manufacture, possession, or distribution of marijuana. An enactment clause provides that except for provisions requiring the Board to promulgate regulations, the provisions of the bill do not become effective unless reenacted by the 2017 Session of the General Assembly. SB 701 (2016 Acts of Assembly, c. 577). [NOTE: Exempts registration information from FOIA while providing access to certain persons.]

Title 19.2 Criminal Procedure.

Threat assessment teams; local school boards. *See summary under § 2.2-3705.2, supra.* HB 1013 (2016 Acts of Assembly, c. 554).

Title 22.1 Education.

Data on teacher performance and quality; confidentiality. Requires data collected by or for the Department of Education or the local school board or made available to and able to be used by the local school board to judge the performance or quality of a teacher, maintained in a teacher's personnel file or otherwise, to be confidential in most instances. Current law requires such data to be confidential only if it is used by a local school board to make such a judgment. The bill provides that if such data is disclosed pursuant to court order, for the purposes of a grievance proceeding involving the teacher, or as otherwise required by state or federal law, such disclosure shall be made in a form that does not personally identify any student or other teacher. HB 524 (2016 Acts of Assembly, c. 390).

Threat assessment teams; local school boards. *See summary under § 2.2-3705.2, supra.* HB 1013 (2016 Acts of Assembly, c. 554).

Public charter schools. Makes several changes to the provisions for the establishment and operation of public charter schools, including making changes and providing greater specificity regarding (i) the applicability of various laws, regulations, policies, and procedures to public charter schools; (ii) the contents of charter applications; and (iii) the procedure for executing charter contracts and the contents of such contracts. SB 734 (2016 Acts of Assembly, c. 770). [NOTE: States explicitly that management committees of public charter schools are subject to FOIA.]

Title 23 Educational Institutions.

Revision of Title 23, Educational Institutions. Creates proposed Title 23.1 (Institutions of Higher Education; Other Educational and Cultural Institutions) as a revision of

existing Title 23 (Educational Institutions). Proposed Title 23.1 consists of 32 chapters divided into five subtitles: Subtitle I (General Provisions); Subtitle II (Students and Campus); Subtitle III (Management and Financing); Subtitle IV (Public Institutions of Higher Education); and Subtitle V (Other Educational and Cultural Institutions). The bill organizes the laws in a more logical manner, removes obsolete and duplicative provisions, and improves the structure and clarity of statutes pertaining to institutions of higher education and other educational and cultural institutions in the Commonwealth. The bill is a recommendation of the Virginia Code Commission and has a delayed effective date of October 1, 2016. HB 209 (2016 Acts of Assembly, c. 588). [NOTE: The bill contains numerous access-related provisions.]

Public institutions of higher education; personal social media accounts. Prohibits a public or private institution of higher education from requiring a student to disclose the username or password to any of such student's personal social media accounts, as defined in the bill. The bill further provides that such a prohibition shall not prevent a campus police officer appointed by a public or private institution of higher education from performing his official duties. SB 438 (2016 Acts of Assembly, c. 597).

Title 24.2 Elections.

Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate report of gifts; definition of procurement transaction; technical amendments. See summary under Title 2.2, *supra*. HB 1362 (2016 Acts of Assembly, c. 773) and SB 692 (2016 Acts of Assembly, c. 774).

Local electoral boards; meeting minutes. Requires the posting of minutes of the local electoral boards' meetings on the local electoral board's website or the official website of the county or city when such means are available. Minutes of meetings are required to be posted as soon as possible but no later than one week prior to the following meeting of the electoral board. SB 89 (2016 Acts of Assembly, c. 403).

Title 30 General Assembly.

Commission on Employee Retirement Security and Pension Reform established. Creates the Commission on Employee Retirement Security and Pension Reform (the Commission) in the legislative branch to study and make recommendations relating to the financial soundness of retirement plans covering state and local government employees; the suitability of retirement plans offered or maintained for current state and local government employees and the attributes of retirement plans that will be suitable for future employees; the impact on state and local governments of the anticipated retirement of experienced employees between 2016 and 2026 and strategies for replacing such employees; and the elements of compensation and benefits packages that are essential to attracting and retaining a highly productive state and local government workforce. HB 665 (2016 Acts of Assembly, c. 683.) [NOTE: Among other provisions, contains an

exemption from FOIA for certain proprietary records of the Virginia Retirement System or its subsidiary corporations provided to the Commission.]

Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate report of gifts; definition of procurement transaction; technical amendments. *See summary under Title 2.2, supra.* HB 1362 (2016 Acts of Assembly, c. 773) and SB 692 (2016 Acts of Assembly, c. 774).

Title 32.1 Health.

Threat assessment teams; local school boards. *See summary under § 2.2-3705.2, supra.* HB 1013 (2016 Acts of Assembly, c. 554).

Title 53.1 Prisons and Other Methods of Correction.

Method of execution. Authorizes the Director of the Department of Corrections to enter into contracts with a pharmacy or outsourcing facility for the compounding of drugs necessary to carry out an execution by lethal injection and provides that the compounding of such drugs (i) does not constitute the practice of pharmacy; (ii) is not subject to the jurisdiction of the Board of Pharmacy, the Board of Medicine, or the Department of Health Professions; and (iii) is exempt from the laws governing pharmacies and the Drug Control Act (§ 54.1-3400 et seq.). The bill also provides that the identities of any pharmacy or outsourcing facilities that enters into such a contract with the Department of Corrections, any officer or employee of such pharmacy or outsourcing facility, and any person or entity used by such pharmacy or outsourcing facility to facilitate the compounding of such drugs shall be confidential and exempt from the Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be subject to discovery or introduction as evidence in any civil proceeding unless good cause is shown. The bill also sets forth labeling requirements for any drug compounded pursuant to such a contract. HB 815 (2016 Acts of Assembly, c. 747).

Title 54.1 Professions and Occupations.

Confidentiality of certain information obtained by health regulatory boards in disciplinary proceedings. Provides that in disciplinary actions involving allegations that a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records or his health services, although such information may be considered by the board in a closed hearing and included in a confidential exhibit to a notice or order. The bill provides that the public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis of its determination. HB 586 (2016 Acts of Assembly, c. 222).

Prescribers of covered substances; continuing education. Authorizes the Director of the Department of Health Professions to disclose information to the Board of Medicine about prescribers who meet a certain threshold for prescribing covered substances for the purpose of requiring relevant continuing education. The threshold shall be determined by the Board of Medicine in consultation with the Prescription Monitoring Program. The bill also directs the Board of Medicine to require prescribers identified by the Director of the Department of Health Professions to complete two hours of continuing education in each biennium on topics related to pain management, the responsible prescribing of covered substances, and the diagnosis and management of addiction. Prescribers required to complete continuing education shall be notified of such requirement no later than January 1 of each odd-numbered year. The provisions of the bill will expire on July 1, 2022. HB 829 (2016 Acts of Assembly, c. 447).

Prescription Monitoring Program; disclosures. Provides that the Director of the Department of Health Professions may disclose information in the possession of the Prescription Monitoring Program about a specific recipient who is a member of a Virginia Medicaid managed care program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia Medicaid managed care program to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. The bill also requires the Prescription Monitoring Program advisory committee to provide guidance to the Director regarding such disclosures. HB 1044 (2016 Acts of Assembly, c. 410) and SB 491 (2016 Acts of Assembly, c. 568).

Prescription Monitoring Program. Provides that, beginning January 1, 2017, reports by dispensers to the Prescription Monitoring Program (the Program) shall be made within 24 hours or the dispenser's next business day, whichever comes later. The bill also allows the Director of the Department of Health Professions to disclose information about a specific recipient to a prescriber for the purpose of establishing the treatment history of the specific recipient when the prescriber is consulting on the treatment of such recipient; allows the Director to disclose information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in providing clinical consultation on the care and treatment of the recipient; removes the requirement that information disclosed to a dispenser for the purpose of determining the validity of a prescription be disclosed only when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices; and provides that a prescriber may include information obtained from the Program for the purpose of establishing the treatment history of a specific recipient in the recipient's medical record. SB 287 (2016 Acts of Assembly, c. 309).

Cannabidiol oil and THC-A oil; permitting of pharmaceutical processors to manufacture and provide. *See summary under Title 18.2, supra.* SB 701 (2016 Acts of Assembly, c. 577). [NOTE: Exempts registration information from FOIA while providing access to certain persons.]

Title 55 Property and Conveyances.

Landlord and tenant laws. Provides under the landlord and tenant law and the Virginia Residential Landlord and Tenant Act (VRLTA) that unless a tenant is at fault in cases of mold needing remediation, the landlord is obliged to pay all costs associated with the tenant's temporary relocation as well as the costs of mold remediation. Among other things, the bill (i) provides that, except for applicable lawful householder's exemptions, nothing affects the right of a landlord with respect to an inchoate or perfected lien of a landlord on the personal property of a tenant of any leased or rented commercial or residential premises or the right of such landlord to distress, levy, and seize such personal property as otherwise provided by law; (ii) clarifies that residential provisions under the landlord and tenant law do not apply to dwelling units under the VRLTA; (iii) provides that a landlord's collection agency and a third party providing background screening or credit reporting services to the landlord or his managing agent may have access to tenant records; (iv) allows the landlord to charge a tenant for his records, if the rental agreement so provides; (v) clarifies that a landlord is not obligated to make repairs to address damages identified in the move-in inspection report unless otherwise required to do so under the VRLTA; (vi) requires a tenant to maintain carbon monoxide detectors to the standards established in the Uniform Statewide Building Code; and (vii) provides that if, upon inspection of the dwelling unit, the landlord determines that repairs are necessary, the landlord may make such repairs and send the tenant an invoice for payment. If, upon inspection of the dwelling unit, the landlord discovers a violation of the rental agreement, the VRLTA, or other applicable law, the landlord may send a written notice of termination. If a tenant declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and reasonable attorney fees against such tenant. The bill contains technical amendments. HB 735 (2016 Acts of Assembly, c. 744).

Limited Residential Lodging Act; penalty. Establishes the Limited Residential Lodging Act (the Act), which allows persons to rent out their primary residences or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restriction prohibiting such short-term rentals, but authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance, prohibiting persons from renting their primary residences if they fail to pay applicable taxes, and requiring persons renting their primary residences to register with the locality. A hosting platform must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. The bill defines "limited residential lodging," "booking transaction," and "hosting platform" and provides for penalties for violations of the Act. The bill contains a reenactment clause and directs the Virginia Housing Commission to convene a work group to further study the issues presented in the bill and make recommendations for consideration by the 2017 Session of the General Assembly. SB 416 (2016 Acts of Assembly, c. 674). [NOTE: The bill provides that certain agreements between hosting platforms and the Department of Taxation are not confidential tax information and are subject to disclosure under FOIA.]

Title 56 Public Service Companies.

BVU Authority; Board powers, officers; broadband; FOIA. *See summary under § 2.2-3705.6, supra.* HB 1255 (2016 Acts of Assembly, c. 725) and SB 329 (2016 Acts of Assembly, c. 724). [NOTE: Both bills were enacted and took effect on April 8, 2016.]

Regulation of water and sewer utilities. *See summary under Title 12.1, supra.* HB 611 (2016 Acts of Assembly, c. 283) and SB 85 (2016 Acts of Assembly, c. 191).

Title 58.1 Taxation.

Department of Taxation; disclosure of certain tax information. Permits the Department of Taxation (the Department) to disclose to a taxpayer whether the taxpayer's employer submitted withholding records to the Department as required. The bill also requires the Department to maintain a list of licensed cigarette stamping agents and make it available upon request to any federal, state, or local law-enforcement agency. HB 951 (2016 Acts of Assembly, c. 344) and SB 325 (2016 Acts of Assembly, c. 227).

Title 59.1 Trade and Commerce.

Fantasy Contests Act; registration required; conditions of registration; civil penalty. Creates the Fantasy Contests Act (the Act), which applies to fantasy contests with an entry fee offered in Virginia. The bill defines "fantasy contest" as any online fantasy or simulated game or contest in which (i) the value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, the point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event. The bill requires operators of fantasy contests to register annually with the Department of Agriculture and Consumer Services. The bill sets forth the conditions for registration and penalties for violation of the Act. The bill provides that such contests are not illegal gambling. HB 775 (2016 Acts of Assembly, c. 703). [NOTE: Among other provisions, the bill contains an exemption for certain records submitted to the Department pursuant to the audit requirements of § 59.1-559 and records submitted to the Department as part of an application for registration or renewal that contain information about the character or financial responsibility of the operator or its principal stockholders.]

Fantasy Contests Act; registration required; conditions of registration; civil penalty. Creates the Fantasy Contests Act (the Act), which applies to fantasy contests with an entry fee offered in Virginia. The bill defines "fantasy contest" as any online fantasy or simulated game or contest in which (i) the value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the

participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, the point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event. The bill requires a fantasy contest operator, as a condition for registration, to establish procedures that include ensuring that players who are the subject of a fantasy contest are restricted from entering a fantasy contest that is determined, in whole or part, on the accumulated statistical results of a team of individuals in which such players are participants. The bill requires operators of fantasy contests to register annually with the Department of Agriculture and Consumer Services and to contract with a testing laboratory to verify the procedures for fantasy contests. The bill sets forth penalties for violation of the Act. The bill provides that fantasy contests conducted in accordance with these measures are not illegal gambling. SB 646 (2016 Acts of Assembly, c. 318). [NOTE: Among other provisions, the bill contains an exemption for certain records submitted to the Department pursuant to the audit requirements of § 59.1-559 and records submitted to the Department as part of an application for registration or renewal that contain information about the character or financial responsibility of the operator or its principal stockholders.]

Title 63.2 Welfare (Social Services).

Confidentiality of information about victims of certain crimes. Provides that, in order to ensure the safety of any adult or child victim of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1 and their families, programs and individuals providing services to such victims shall protect the confidentiality and privacy of persons receiving services by limiting the disclosure of information about such victims, including by prohibiting the release of individual client information without the informed consent of the minor and his parent or legal guardian, in cases in which the client is an unemancipated minor. The bill also clarifies that a person is a victim for purposes of such confidentiality and privacy protections regardless of whether any person has been charged with or convicted of any offense. The bill also provides that an alleged abuser of a minor or incapacitated person or of the minor's other parent may not consent to the release of confidential information. HB 373 (2016 Acts of Assembly, c. 670) and SB 253 (2016 Acts of Assembly, c. 666).

Title 65.2. Worker's Compensation.

Workers' compensation; fee schedules for medical services. Directs the Workers' Compensation Commission (the Commission) to adopt regulations establishing fee schedules setting the maximum pecuniary liability of the employer for medical services provided to an injured person pursuant to the Virginia Workers' Compensation Act, in the absence of a contract under which the provider has agreed to accept a specified amount for the medical service. Among other provisions, contains a FOIA exemption for certain records and information relating to payments or reimbursements to providers used in development of the fee schedules. The bill contains an emergency clause, as well as other enactment clauses. HB 378 (2016 Acts of Assembly, c. 279) and SB 631 (2016

Acts of Assembly, c. 290). [**NOTE:** *Due to the emergency clause, both bills were enacted effective March 7, 2016.*]

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