

**2006 VAGP LEGISLATIVE SUMMARY  
SUCCESSFUL BILLS**

<b>Bill Number</b>	<b>Title / Summary/ Code Ref.</b>	<b>Position</b>	<b>Disposition</b>
HB 1	<b>Adjustment of claims resulting from certain contracts.</b> Repeals Chapter 8 of Title 33.1, which relates to adjustment of claims resulting from contracts entered into prior to July 1, 1976, for construction of state highways. This bill is a recommendation of the Virginia Code Commission. <b>Repeals (§§ <a href="#">33.1-382</a> through <a href="#">33.1-385</a>)</b>	<b>NONE</b>	Passed
HB 1109	<b>Background checks for public school contract employees; penalty.</b> Provides that school boards must require, as a condition of employment for all public school employees performing services on a contract basis, certification (i) that the employee has not been convicted of a felony or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child and (ii) of whether the employee has been convicted of a crime of moral turpitude.  <b>amend and reenact § <a href="#">22.1-296.1</a></b>	<b>N/A:</b> Proposal applies to 'contract' employees, not employees retained through a public contract.	Passed
HB 1183	<b>Virginia Public Procurement Act; procurement of professional services; multiple awards.</b> Provides an exception to the competitive negotiation process for the procurement of professional services where if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.  <b>amend <a href="#">2.2-4301</a></b>	<b>POS:</b> The merit of this proposal hinges on the increase in administrative efficiency in permitting multiple awards for solicitation of professional services. The VPPA recognizes the benefit of multiple awards for all contract types except professional services. Adoption of this proposal would provide the local body authority to make multiple awards for all service contracts.	Passed
HB 1187	<b>Electric authorities.</b> Amends the Electric Authorities Act. The bill confers the authority for single member authorities to distribute electric energy for retail sales to customers within their geographic or certificated area. In addition, a governmental unit no longer has to	<b>NONE:</b> Applies only to the Town of Elkton	Passed

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	<p>conduct a referendum in order to create a single member authority of which it is the sole member. Furthermore, a single member authority undertaking a project is held to the same state and federal provisions, and to the same extent, that would have applied to the governmental unit that is the sole member of such authority if such governmental unit had directly undertaken the project. The Virginia Personnel Act and the Virginia Public Procurement Act apply to a single member authority to the extent that such provisions would have applied to the authority's single member governmental unit in the exercise of such power directly. The bill further exempts single member authorities from the Virginia Electric Utility Restructuring Act and from paying taxes to the governmental unit that is its sole member.</p> <p><b>§§ <a href="#">15.2-5401</a> through <a href="#">15.2-5403</a>, <a href="#">15.2-5405</a>, <a href="#">15.2-5406</a>, <a href="#">15.2-5409</a>, <a href="#">15.2-5423</a>, <a href="#">56-1</a>, and <a href="#">56-580</a> of the Code of Virginia are amended</b></p>		
HB 1192	<p><b>Cash proffers; road improvements.</b> Allows localities to award a contract to certain entities that are willing to construct a more extensive road improvement utilizing cash proffers of others as well as other available funds, upon a written determination by the governing body stating the basis for awarding one construction contract to extend the limits of the road improvement.</p> <p><b>§ <a href="#">15.2-2303.2</a> of the Code of Virginia is amended</b></p>	<b>POS:</b> The bill provides localities the flexibility in working with developers to complete related road improvements in connection with their development efforts.	Passed
HB 122	<p><b>Public procurement; SWAM businesses.</b> Requires that each public body's program to facilitate the participation of small, women- and minority-owned (SWAM) businesses in procurement transactions include a goal that 40% of the public body's procurement expenditures be for transactions with SWAM businesses. To count toward meeting this goal, the SWAM business must be certified by the Department of Minority Business Enterprise. Public bodies are required to file annual reports detailing efforts to meet the goal of 40% SWAM business procurement.</p> <p><b>§2.2-4310</b></p> <p><b>Substitute (1):</b> <i>Programs by state public bodies shall include a goal</i></p>	<b>ADV:</b> This non-mandatory provision requires amendment of existing legislation requiring all public bodies to embrace the SWAM goals established by the State. The bill is counter-productive to successful local programs for minority-owned businesses. The intent of the bill conflicts with stated objectives of the Va. Public Procurement Act, which champions competition at the highest level with	Passed

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	<p><i>that each year 30% of the public body's discretionary spending as reflected in the Governor's current budget and approved by the General Assembly in the appropriation act be for procurement transactions with small, woman-owned, or minority-owned businesses</i></p> <p><b>Substitute (2):</b> Consolidates HB 122, 1069, 1376, and 1227. Expenditure target eliminated. Bill now establishes consistent definitions, provides authority to deny certification for vendors from states that deny like certification, allows Governor or chief executive of local governing body to implement a remediation plan.</p>	<p>an open, unfettered, and impartial business environment and the principles of the profession that support open competition in the interest of lowering the cost of goods and services procured.</p> <p>Issues:</p> <ul style="list-style-type: none"> <li>• Establishing a 40% expenditure target for public bodies is flawed because the target was established from a disparity study done of the procurement transactions of state agencies and not all public bodies.</li> <li>• Universal application of this requirement for public bodies is not possible.</li> <li>• The sole certification requirement by the Department of Minority Business Enterprise included in the bill is both cumbersome and bureaucratic.</li> </ul>	
<p>HB 1259</p>	<p><b>Virginia Public Procurement Act; performance and payment bonds.</b> Adds a provision that for the award of any construction contract exceeding \$100,000 in which the performance of labor or the furnishing of materials will be paid with public funds, the contractor must furnish to the public body performance and payment bonds. In addition, the bill provides that performance and payment bonds are required for construction contracts exceeding \$100,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property leased by a public body.</p>	<p><b>NOSIG:</b> Adds performance and payment bond requirement for any construction contract exceeding \$100,000. Cost will be passed on to public body (approximately \$3,000 per \$100,000 value). Inconsistent with HB 64 which proposes to raise the threshold from \$100,000 to \$500,000.</p>	<p>Passed</p>

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HB 1416	<p><b>amend and reenact § <a href="#">2.2-4337</a></b></p> <p><b>Virginia Public Procurement Act; methods of procurement; design-build by certain local public bodies.</b> Provides that design-build or construction management projects undertaken by any local governing body when the contract is not expected to cost more than \$2 million shall be exempt from approval of the Design-Build Review Board. As a result, such local governing bodies have authority to enter into contracts on a fixed price design-build basis or construction management basis.</p> <p><b>amend and reenact §§ <a href="#">2.2-4303</a> and <a href="#">2.2-4308</a></b></p>	<p><b>POS:</b> Bill streamlines the construction project process for localities and reduces the need for the Design-Build Construction Management Review Board. See HB 818 and HB 666.</p>	Passed
HB 458	<p><b>Virginia Public Procurement Act; cooperative procurement; professional services.</b> Allows a public body to enter into cooperative procurements for professional services, even though the public body did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies.</p> <p><b>amend and reenact § <a href="#">2.2-4304</a></b></p> <p><b>Substitute:</b> Allows cooperative contracts for professional services, except architectural and engineering services.</p>	<p><b>POS:</b> The legislation provides another tool for the public body to use that may increase the efficiency of the procurement process. Although it may be difficult to apply the cooperative pricing model to A/E services for the development of construction documents, there are other professional services identified in the VPPA which have potential for cooperatively procurements between bodies. Examples of these services are medical, environmental or geotechnical services which lend themselves to the establishment of term contracts that could be cooperatively used by another public body. Use of cooperative contracts produces cost avoidance savings realized in the administrative costs associated with the procurement process.</p>	Passed
HB 557	<p><b>Virginia Public Procurement Act; prohibited contracts.</b> Expands the prohibition on state contracts with vendors who haven't paid</p>	<p><b>NOSIG:</b> Adds another layer of review before awarding a contract;</p>	Passed

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	state income taxes. <b>amend and reenact § <a href="#">2.2-4321.1</a></b>  <b>Substitute:</b> Limits application to state agencies only.	awarding entity must rely on accuracy of DGS website and timeliness of information transmitted from Dept. of Taxation	
HB 64	<b>Performance and payment bonds.</b> Increases the amount of required bid, payment, and performance bonds from \$100,000 to \$500,000. <b>§2.2-4336 and §2.2-4337</b>  <b>Substitute:</b> Adds bond threshold of \$300,000 for transportation contracts	<b>POS:</b> Allows flexibility to require bonds at any contract amount. May benefit small / minority vendors.	Passed
HB 666	<b>Awarding of design-build contracts by Commonwealth Transportation Board.</b> Eliminates the number and dollar limitations on awarding of design-build contracts by the Commonwealth Transportation Board. <b>amend and reenact § <a href="#">33.1-12</a></b>	<b>POS:</b> Bill streamlines the construction project process for the CTB.	Passed
HB 671	<b>Design-build contracts.</b> Allows counties, cities, and towns to award contracts for the construction of transportation projects on a design-build basis. amend by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered <a href="#">33.1-223.2:16</a>	<b>POS:</b> Bill streamlines the construction project process for localities and reduces the need for the Design-Build Construction Management Review Board for transportation projects.	Passed
HB 701	<b>Motor carrier transportation contracts; indemnification clauses.</b> Declares that clauses in motor carrier transportation contracts that purport to indemnify the shipper for the shipper's negligence or intentional acts are against public policy, void, and unenforceable. <b>amended by adding a section numbered <a href="#">11-4.5</a></b>  <b>Substitute:</b>	<b>NOSIG:</b> Bill eliminates a practice that is not commonly practiced or endorsed.	Passed
HB 761	<b>Small employer health group pooling.</b> Authorizes the establishment of cooperatives for the purpose of offering, providing or facilitating the provision of coverage for health care services to participating small employers. Membership in health group cooperatives is limited to employers with not more than 50 eligible employees. A small employer health group cooperative is deemed	<b>NONE</b>	Passed

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	<p>to be a single entity for purposes of negotiating the terms, including premium rates of coverage. Cooperatives shall elect to either be the policyholder of a group policy covering employer-members or a sponsoring entity that facilitates the provision of separate policies for each of its employer-members.</p> <p><b>§§ <a href="#">38.2-4214</a>, <a href="#">38.2-4319</a>, and <a href="#">38.2-4509</a> of the Code of Virginia are amended and reenacted</b></p>		
HB 852	<p><b>Hospital authorities.</b> Attempts to standardize powers and duties concerning hospital authorities, specifically the Chesapeake Hospital Authority, Patrick Hospital Authority, Richmond Eye and Ear Hospital Authority, all authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2, and all hospital or health center commissions created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2. The bill also amends the current exemptions for such hospital authorities under the Freedom of Information Act (FOIA) and the Virginia Public Procurement Act. The bill also adds a FOIA exemption for records related to utilization review, credentialing, quality assurance by hospital authorities and other entities, and an open meeting exemption concerning discussion of those records by those entities. The bill contains technical amendments.</p> <p><b>§§ <a href="#">2.2-3705.7</a>, <a href="#">2.2-3711</a>, <a href="#">2.2-4345</a>, <a href="#">15.2-5201</a>, <a href="#">15.2-5202</a>, <a href="#">15.2-5204</a>, <a href="#">15.2-5205</a>, <a href="#">15.2-5301</a>, <a href="#">15.2-5307</a>, <a href="#">15.2-5339</a> of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 52 of Title 15.2 a section numbered <a href="#">15.2-5219</a> and by adding sections numbered <a href="#">15.2-5340.1</a> and <a href="#">15.2-5340.2</a></b></p>	<p><b>NOSIG:</b> The bill standardizes the powers of hospital authorities, provides FOIA exemptions for certain records and makes other technical adjustments. No fiscal impact.</p>	Passed
HB 877	<p><b>Construction by state and local employees.</b> Raises from \$300,000 to \$1,000,000 the cost of projects that the Commonwealth Transportation Board may build or maintain in any system of state highways by state employees.</p> <p><b>§ <a href="#">33.1-190</a> of the Code of Virginia is amended</b></p>	<p><b>NOSIG:</b> Bill provides limited exception to allow state and local employees to maintain state highways. The bill has a confusing condition that restricts applicability to a situation where there are fewer than two bids received in response to an IFB. Companion bill to SB 196.</p>	Passed

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HB 994	<p><b>Virginia Public Procurement Act; purchase of certain insurance in construction projects.</b> Allows a public body to purchase an owner-controlled insurance program in connection with any public construction contract. The bill defines owner-controlled insurance program and provides that no contractor or subcontractor can be required to provide insurance coverage for a construction project if that specified coverage is included in an owner-controlled insurance program in which the contractor or subcontractor is enrolled.</p> <p><b>adding a section numbered <a href="#">2.2-4308.1</a></b></p>	<p><b>NOSIG:</b> The bill would only have an impact on the Commonwealth should it elect to provide owner-controlled insurance programs for construction projects. The Commonwealth currently offers no such program.</p>	Passed
SB 196	<p><b>Construction by state and local employees.</b> Allows local employees to build roads that are funded by the State.</p> <p><b>§ <a href="#">33.1-190</a> of the Code of Virginia is amended and reenacted</b></p>	<p><b>NOSIG:</b> Bill provides limited exception to allow state and local employees to maintain state highways. The bill has a confusing condition that restricts applicability to a situation where there are fewer than two bids received in response to an IFB. Companion bill to HB 877.</p>	Passed
SB 271	<p><b>Virginia Public Procurement Act; purchase of certain insurance in construction projects.</b> Allows a public body to purchase an owner-controlled insurance program in connection with any public construction contract. The bill defines owner-controlled insurance program and provides that no contractor or subcontractor can be required to provide insurance coverage for a construction project if that specified coverage is included in an owner-controlled insurance program in which the contractor or subcontractor is enrolled.</p> <p><b>adding a section numbered <a href="#">2.2-4308.1</a></b></p>	<p><b>NOSIG:</b> The bill would only have an impact on the Commonwealth should it elect to provide owner-controlled insurance programs for construction projects. The Commonwealth currently offers no such program. See HB 994.</p>	Passed
SB 449	<p><b>Disposition of surplus materials.</b> Adds online public auctions as a permissible means by which the Commonwealth and localities thereof may dispose of surplus materials. Localities that elect to dispose of surplus materials through public sale or auction (including online public auction) are subject to the same provisions applicable to state agencies, departments, divisions, and institutions that dispose of surplus materials by public sale or auction.</p> <p><b>§§ <a href="#">2.2-1124</a> and <a href="#">15.2-951</a> of the Code of Virginia are amended and reenacted</b></p>	<p><b>POS:</b> Adds a contemporary means of advertising and conducting disposal of surplus public property. This will expedite the disposition process but should not have a significant fiscal impact.</p>	Passed

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SB 662	<p><b>Department of Minority Business Enterprise; certification of small, woman- or minority-owned businesses.</b> Includes small and women business enterprises in the certification program administered by the Department of Minority Business Enterprise. The bill provides that such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women, or minority business enterprises or that provide a preference for small, women, or minority business enterprises based in that state that is not available to Virginia-based businesses. The bill requires the Department to adopt regulations that mandate certification, without any additional paperwork or fee, of any prospective state vendor already certified under any certification program that is determined to meet the minimum requirements established in the regulations of the Department. The bill also provides that a business certified by the Department shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity.</p> <p><b>§§ <a href="#">2.2-1403</a>, <a href="#">2.2-4310</a>, and <a href="#">15.2-965.1</a> of the Code of Virginia are amended and reenacted</b></p> <p><b>Substitute:</b> Includes small and women business enterprises in the DMBE certification program. Substitute makes technical amendment.</p>	<p><b>ADV:</b> Oppose mandated certification. Oppose reciprocity element. Support SWAM certification process; may eliminate costs associated with securing multiple certifications for SWAM vendors.</p>	Passed
SB 664	<p><b>Department of General Services; Division of Purchases and Supply; purchases by private nonprofit institutions of higher education from certain state contracts.</b> Allows private, nonprofit institutions of higher education chartered in Virginia to purchase directly from state contracts established by the Division of Purchases and Supply.</p> <p><b>§ <a href="#">2.2-1120</a> of the Code of Virginia is amended and reenacted</b></p>	<p><b>POS:</b> Statewide contracts may result in better leveraged pricing and greater savings from increased purchasing volume.</p>	Passed
SB 681	<p><b>Cash proffers; road improvements.</b> Allows localities to award a contract to certain entities that are willing to construct a more extensive road improvement utilizing cash proffers of others as well as other available funds, upon a written determination by the</p>		Passed

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	governing body stating the basis for awarding one construction contract to extend the limits of the road improvement.  <b>amend and reenact § <a href="#">15.2-2303.2</a></b>		
SB 732	<b>Virginia Public Procurement Act; methods of procurement; design-build by certain local public bodies.</b> Provides that design-build or construction management projects undertaken by any local governing body with a population in excess of 80,000 or by two or more local governing bodies having a combined population in excess of 80,000 through cooperative procurement shall be exempt from approval of the Design-Build Review Board. As a result such local governing bodies have authority to enter into contacts on a fixed price design-build basis or construction management basis.  <b>amend and reenact §§ <a href="#">2.2-4303</a> and <a href="#">2.2-4308</a></b>	<b>POS:</b> Exempts design-build projects undertaken by localities with population in excess of 100,000 from approval of the Design-Build Review Board.	Passed
SB 76	<b>Freedom of Information Act (FOIA); disclosure of procurement records under the Public-Private Transportation Act of 1995 (PPTA) and the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA).</b> Revises the current FOIA exemption for records submitted by a private entity to a responsible public entity under the PPTA and the PPEA and formalizes the earmarking process or the protection of trade secrets, financial records, and other records submitted by a private entity, by requiring a written request for an exclusion from disclosure by the private entity and for a written determination by the responsible public entity that such records will be protected from disclosure under certain circumstances. The bill also amends the PPTA and PPEA to require a public entity to post all accepted conceptual proposals, whether solicited or not. The required posting for responsible public entities that are state agencies, departments, and institutions, shall be on eVA (the Department of General Service's web-based electronic procurement program) and for responsible public entities that are local public bodies, posting shall be on the responsible public entity's website or by publication, in a newspaper of general circulation in the area in which the contract is to be performed, of a summary of the proposals and the location where copies of the	<b>ADV:</b> The legislation provides additional layers of complexity to the PPEA and PPTA. It also places the burden on public bodies to identify whether a private entity's request to be excluded from disclosure is necessary to protect their trade secrets. By no means is a public body qualified to make such a judgment and can only lead to increased risk and possible litigation for inadvertently releasing proprietary information. There is no such requirement in the Va. Public Procurement Act and this responsibility is ill placed in this provision. Further, the new requirements for posting notices and allowing for public comment of proposals submitted under either the PPEA or PPTA is a reversal of	Passed

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	<p>proposals are available for public inspection. Local public bodies may also post on eVA, in the discretion of the local responsible public entity. The bill also requires at least one copy of the proposals shall be made available for public inspection. The bill provides that nothing shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals. The bill also requires the responsible public entity to provide an opportunity for public comment 30 days before the execution of an interim or comprehensive agreement. The bill provides that once the process of bargaining of all phases or aspects of an interim or comprehensive agreement is complete, but before an interim or a comprehensive agreement is entered into, a responsible public entity shall post the proposed agreement. Once an interim or comprehensive agreement has been executed, all procurement records, excluding trade secrets, financial information, and cost estimates, are available to the public upon request. The bill is a recommendation of the Freedom of Information Advisory Council.</p> <p><b>§§ <a href="#">2.2-3705.6</a>, <a href="#">56-573.1</a>, and <a href="#">56-575.16</a> of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section number <a href="#">56-573.1:1</a> and by adding in Chapter 22.1 of Title 56 a section numbered <a href="#">56-575.17</a></b></p>	<p>original intent of the law that welcomed unsolicited proposals that would remain confidential and not relevant to a competitive process. These new requirements would only lead to a lengthened process which would require public bodies to examine alternative methods that may not be as effective. Finally, the proposed legislation conflicts with the current restriction on public access to the records if the public body elects not to make an award and all records are then sealed.</p>	

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## 2006 VAGP LEGISLATIVE SUMMARY

## UNSUCCESSFUL BILLS

Bill Number	Title / Summary/ Code Ref.	Position	Disposition
SB 629	<p><b>Employment of illegal aliens; cause of action.</b> Provides that a business has a cause of action against any other entity in the same business if the other entity employs or employed persons it knew or should have known were illegal aliens who are ineligible for employment in the United States. In addition to economic damages, the plaintiff may recover \$500 for each such illegal alien employed by the defendant.</p> <p><b>amend by adding a section numbered <a href="#">11-4.5</a></b></p>	<b>ADV:</b>	Passed by indefinitely
SB 493	<p><b>State contracts.</b> Requires bidders on state contracts to disclose the country of origin of goods, services, insurance, or construction in their bid submissions.</p> <p><b>amend and reenact § <a href="#">2.2-4303</a></b></p>	<b>ADV:</b> Implementation uncertain. No consequence attached to failure to disclose.	Sent to Joint Commission on Technology and Science on 1/19
SB 254	<p><b>Sales and use tax; exemption for certain contractors.</b> Exempts from paying the sales and use tax any person who contracts on or after July 1, 2006, to perform services for and provide tangible personal property for consumption or use by the Commonwealth, any political subdivision of the Commonwealth, or the United States, if the Commonwealth, political subdivision, or the United States certifies that title to such tangible personal property will pass to such governmental entity.</p> <p><b>amend and reenact § <a href="#">58.1-610</a></b></p>	<b>NOSIG:</b> Exemption may result in cost savings for public projects. See HB 536.	Stricken at request of patron on 1/25
HB 536	<p><b>Sales and use tax; exemption for certain contractors.</b> Exempts from paying the sales and use tax any person who contracts on or after July 1, 2006, to perform services for and provide tangible personal property for consumption or use by the Commonwealth, any political subdivision of the Commonwealth, or the United States, if the Commonwealth, political subdivision, or the United States certifies that title to such tangible personal property will pass to such</p>	<b>NOSIG:</b> Exemption may result in cost savings for public projects. See SB 254.	Tabled in Finance

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	governmental entity. <b>amend and reenact § <a href="#">58.1-610</a></b>		
HB 818	<b>Virginia Public Procurement Act; methods of procurement; design-build by certain local public bodies.</b> Provides that design-build or construction management projects undertaken by any local governing body with a population in excess of 80,000 or by two or more local governing bodies having a combined population in excess of 80,000 through cooperative procurement shall be exempt from approval of the Design-Build Review Board. As a result such local governing bodies have authority to enter into contacts on a fixed price design-build basis or construction management basis. <b>amend and reenact §§ <a href="#">2.2-4303</a> and <a href="#">2.2-4308</a></b>	<b>POS:</b> Bill streamlines the construction project process for localities and reduces the need for the Design-Build Construction Management Review Board.	Tabled in General Laws
HB 1226	<b>Procurement contract fees for eVa; minimum fee required.</b> Requires the Department of General Services to set a minimum fee for contracts formed using the electronic public procurement program commonly known as "eVa." The minimum fee would be charged when the percentage-based fee is lower than the minimum fee. The minimum fee shall be set at a rate that will ensure eVa operates as a financially self-supporting application. <b>amend and reenact § <a href="#">2.2-1102</a></b>	<b>NOSIG:</b> Any vendor registered in eVA would pay a larger fee for small orders when the currently assessed one percent fee is less than the minimum fee. The purpose is to make eVA a financially self-supporting activity.	Continued to 2007
SB 727	<b>Department of Veterans Services; certification of businesses owned by special disabled veterans.</b> Prohibits discrimination by public bodies in the solicitation and awarding of contracts and requires public bodies to establish a program to facilitate the participation of businesses owned by special disabled veterans in procurement transactions. The bill also requires the Department of Veterans Services to establish a program to certify businesses owned by special disabled veterans.  <b>§§ <a href="#">2.2-2001</a> and <a href="#">2.2-4310</a></b>	<b>NOSIG:</b> Disabled veterans previously recognized, but not included in process. Bill will add certification for disabled veterans.	Continued to 2007

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HB 1569	<p><b>Contracting for the provision of foreign employment services.</b> Prohibits any corporation, limited liability company, business trust, or partnership from contracting for the provision of foreign employment services unless the services provider delivers to the client company documentation verifying that the services provider has filed all reports and paid all federal and state taxes and maintained workers' compensation insurance required of an employer in the Commonwealth with respect to all of the services provider's employees who are aliens with an H-1B or L-1 temporary worker visa and who work at a facility owned or operated by the client company, or pursuant to an arrangement that provides that the individuals are subject to the direction and control of the client company. The client company is required to maintain records documenting that the employment services provider provided the client company with the required documentation. A violation is a Class 1 misdemeanor. Violations are also subject to a civil penalty of not more than \$10,000.</p> <p><b>adding a section numbered <a href="#">40.1-11.2</a></b></p>	<b>ADV:</b> Implementation of bill may be practicably impossible to enforce. Bill needs further lay definition of 'employment services.'	Continued to 2007 in Commerce and Labor
HB 1570	<p><b>Business entities; certification of legal status; penalty.</b> Requires that an individual executing a document to be filed with the State Corporation Commission pertaining to a corporation, limited liability company, business trust, limited partnership, or general partnership execute and submit a sworn and notarized affidavit certifying that the individual and every other individual identified in the document as an officer, director, shareholder, manager, member, partner, trustee, employee, or agent, as appropriate, of the business entity is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States. The individual shall submit valid documentary evidence that the individual and every other individual so identified have such status. A violation is a Class 1 misdemeanor.</p> <p><b>§§ <a href="#">13.1-604</a>, <a href="#">13.1-804</a>, <a href="#">13.1-1003</a>, <a href="#">13.1-1202</a>, <a href="#">50-73.17</a>, and</b></p>	<b>NONE</b>	Continued to 2007 in Commerce and Labor

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	<b><u>50-73.83</u> of the Code of Virginia are amended and reenacted</b>		
HB 1314	<b>Public Procurement Act; prohibited contracts; required contract provisions.</b> Provides that no public body shall enter into any contract for goods, services, or construction with any potential bidder or offeror that employs in any aspect of such person's business, individuals other than citizens of the United States, legal resident aliens, or individuals with a valid visa. The bill further requires all public bodies to include in every contract for goods or services the following provisions: During the performance of this contract, the contractor agrees to (i) post in conspicuous places, available to employees and applicants for employment, a statement notifying such persons that only citizens of the United States, legal resident aliens, and individuals with a valid visa will be hired to perform the services under the contract or any subcontract of such contract; (ii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor will hire only citizens of the United States, legal resident aliens, and individuals with a valid visa to perform the services under the contract or any subcontract of such contract; and (iii) include the provisions of the foregoing clauses in every subcontract or purchase order, so that the provisions will be binding upon each subcontractor or vendor. <b>adding a section numbered <u>2.2-4311.1</u></b>	<b>ADV:</b> Same as HB 185, except that HB 185 does not apply to construction contracts.	Continued to 2007 in General Laws
HB 750	<b>Public Procurement Act; performance and payment bonds.</b> Makes the amount of the performance bond for transportation-related projects the contract amount. Currently for transportation-related projects, the amount of the bond is within the discretion of the public body. <b>amend and reenact § <u>2.2-4337</u></b>	<b>ADV:</b> Limits flexibility to establish performance and payment bond thresholds based on project needs. Proposed legislation is inconsistent with HB 64.	Continued to 2007 in General Laws
HB 1122	<b>Procurement of services by certain state agencies.</b> Requires the Division of Purchases and Supply of the Department of General Services, by regulation, to require all	<b>ADV:</b> Proposed legislation adds an additional step to the procurement process by requiring state agencies to search for	Failed

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	<p>state agencies to procure services from the private sector if the services are listed as a commercial activity on the commercial activities list developed by the Commonwealth Competition Council in accordance with § 2.2-2622. The bill does not apply to the hiring of law-enforcement personnel. The bill also provides an exception to the requirement that government cease performing services that can be obtained from a commercial source when the state agency, upon a written determination, finds that the procurement of services from a commercial source is either not practicable or fiscally advantageous. The bill also requires that beginning the Commonwealth Competition Council annually update its commercial activities list.</p> <p><b>amend and reenact § 2.2-1111, 2.2-2622, and 2.2-5513</b></p>	<p>commercial activities from a list developed by the Commonwealth Competition Council. Agencies would have to perform an analysis for each activity to determine whether it is practical and fiscally advantageous to purchase these services from the private sector. The cost of implementation is unknown, but potentially in the tens of millions of dollars.</p>	
SB 541	<p><b>Public-Private Education Facilities and Infrastructure Act; review and implementation of qualifying projects; Public-Private Partnership Advisory Council.</b> Requires the review of qualifying projects under the Public-Private Education Facilities and Infrastructure Act (PPEA) by the appropriating body, which is the body responsible for appropriating or authorizing funding for the project. The bill provides that any aspects of an interim or comprehensive agreement requiring an appropriation or continuing appropriation shall not be developed or operated by a private entity until such time that the appropriation is approved by the appropriating body. The bill also requires that the guidelines that must be adopted by responsible public entities include provisions for (i) the financial review and analysis of the proposed qualifying project and the disclosure of such analysis to the appropriating body, (ii) consideration of nonfinancial benefits of a proposed qualifying project, and (iii) a mechanism for the appropriating body to review the proposed interim or comprehensive agreement before it is finalized. In addition, the bill establishes the Public-Private Partnership Advisory Council to advise the Governor and responsible public entities on</p>	<p><b>ADV:</b> The proposal creates a new Public-Private Partnership Advisory Council of seven members to advise the Governor and public entities on the terms and conditions of proposed interim and comprehensive agreements.</p>	Failed in Senate

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	<p>the terms and conditions of proposed interim and comprehensive agreements. The bill contains technical amendments.</p> <p><b>§§ <a href="#">56-575.1</a>, <a href="#">56-575.3:1</a>, <a href="#">56-575.4</a>, and <a href="#">56-575.16</a> of the Code of Virginia are amended and reenacted; Code of Virginia is amended by adding in Chapter 25 of Title 2.2 an article numbered 8, consisting of sections numbered <a href="#">2.2-2524</a> and <a href="#">2.2-2525</a></b></p>		
HB 427	<p><b>Office of Comprehensive Services for At-Risk Youth and Families; rates for residential treatment.</b> Requires the director of the Office of Comprehensive Services to negotiate statewide or regional contracts for residential treatment services paid from state pool funds.</p> <p><b>amend §§ <a href="#">2.2-2649</a> and <a href="#">2.2-5214</a></b></p>	<p><b>NOSIG:</b> Director of the Office of Comprehensive Services Establish statewide or regional contracts for residential treatment services paid through the state pool.</p>	HB577-Nixon
HB 1227	<p><b>Department of Minority Business Enterprise; certification of small, woman- or minority-owned businesses.</b> Includes small and women business enterprises in the certification program administered by the Department of Minority Business Enterprise. The bill provides that such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women, or minority business enterprises or that provide a preference for small, women, or minority business enterprises based in that state that is not available to Virginia-based businesses. The bill requires the Department to adopt regulations that mandate certification, without any additional paperwork or fee, of any prospective state vendor already certified under any certification program that is determined to meet the minimum requirements established in the regulations of the Department. The bill also provides that a business certified by the Department shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity.</p>	<p><b>NOSIG:</b> Oppose the reciprocity element. Other features will facilitate the SWAM certification process and eliminate costs to SWAM vendors associated with securing multiple certifications.</p>	Incorporated by General Laws (HB122-Marshall, R.G.)

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	<b>amend and reenact §§ <a href="#">2.2-1403</a>, <a href="#">2.2-4310</a>, and <a href="#">15.2-965.1</a></b>		
HB 1376	<b>Certification of small, women and minority-owned businesses.</b> Requires the Department of Minority Business Enterprise to develop regulations that would streamline the certification program and eliminate unnecessary paperwork and duplication; mandates acceptance of certifications that meet standards established in regulations published by the Department of Minority Business Enterprise; and assures that Virginia business receive a preference in state procurement when such preferences are applied against Virginia businesses by other states. <b>§§ <a href="#">2.2-1403</a>, <a href="#">2.2-4310</a>, and <a href="#">15.2-965.1</a> of the Code of Virginia are amended and reenacted</b>	<b>NOSIG:</b> Oppose the reciprocity feature. Support other features that will facilitate the SWAM certification process and eliminate costs to SWAM vendors associated with securing multiple certifications. See HB 1227	Incorporated by General Laws (HB122-Marshall, R.G.) on 2/9
HB 1069	<b>Department of Minority Business Enterprise; small, women and minority enterprise.</b> Changes the name from Department of Minority Business Enterprise to the Department of Vendor Diversity and Development. The bill also (i) adds a definition for "disadvantaged business," "small business," and "women-owned business"; (ii) includes small and women-owned businesses within the overall minority-owned business enhancement and development plan; (iii) authorizes the Department to implement any remediation or enhancement measure for small, women-owned, or minority business enhancement developed by the governor under existing statutory authority; and (iv) clarifies the Department's authority to adopt regulations and issue guidelines. The bill also provides an exemption from the mandatory disclosure provisions of the Freedom of Information Act for confidential proprietary records, voluntarily provided to the Department by private business pursuant to a promise of confidentiality. <b>§§ <a href="#">2.2-204</a>, <a href="#">2.2-1400</a> through <a href="#">2.2-1404</a>, <a href="#">2.2-1405</a>, <a href="#">2.2-2311</a>, <a href="#">2.2-3705.6</a>, <a href="#">2.2-4301</a>, <a href="#">2.2-4310</a>, <a href="#">3.1-18.14</a>, <a href="#">3.1-27.41</a>, and <a href="#">18.2-213.1</a> of the Code of Virginia are amended and reenacted</b>	<b>POS:</b> Support name change and inclusion of definition for disadvantage business, small business and women-owned business. Some costs to the Dept. of Minority Business Enterprise associated with the provisions of the bill.	Incorporated by General Laws (HB122-Marshall, R.G.) on 2/9/06
HB 1306	<b>Public-Private Transportation Act and the Public-Private</b>	<b>NOSIG:</b> Support intent to prevent conflict of	Left in

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Bill Number	Title / Summary/ Code Ref.	Position	Disposition
	<p><b>Education Facilities and Infrastructure Act; required disclosure by private entity.</b> Requires a private entity to include with its initial submittal the disclosure of (i) whether the private entity directly employs or intends to use the services of a legislator or a firm in which a legislator is a member and (ii) whether a legislator has a personal interest in the proposal or the private entity as defined in § 30-101. The bill also provides that if, after the initial submittal of the proposal, the private entity subsequently employs or uses the services of a legislator or a firm in which a legislator is a member, that the private entity must provide written disclosure to the responsible public entity within 30 days.</p> <p><b>amended by adding sections numbered <a href="#">56-559.1</a> and <a href="#">56-575.3:2</a></b></p>	interest.	Committee of Courts for Justice on 2/15
HB 1484	<p><b>Sales and use tax; payments by certain vendors.</b> Repeals, effective May 1, 2006, the requirement that certain vendors make an additional payment of sales and use tax to the Department of Taxation in June 2006. Under current law the requirement would be repealed effective August 1, 2006. The bill has an emergency clause.</p> <p><b>§ <a href="#">58.1-615</a> of the Code of Virginia is amended and reenacted</b></p>	<b>NONE:</b>	Left in Finance subcommittee on 2/15
SB 551	<p><b>Purchase of energy efficient vehicles.</b> Provides that any passenger-type vehicles purchased or leased by the Commonwealth shall be of the highest fuel economy and lowest pollutants available for the vehicle's intended purpose.</p> <p><b>adding a section numbered <a href="#">2.2-1176</a></b></p>	<b>NONE:</b> Establishes guidelines for State vehicle acquisition (purchase or lease); no fiscal impact.	Left in General Laws
HB 185	<p><b>Public Procurement Act; prohibited contracts; required contract provisions.</b> Provides that no public body shall enter into any contract for services unless the contract provides that only citizens of the United States, legal resident aliens, and individuals with a valid visa will perform the services under the contract or any subcontract of that contract. The bill further requires all public bodies to include</p>	<b>ADV:</b> The legislation could limit the contractor selection process when the most qualified person or firm is located outside the United States (possible conflict with US NAFTA partners). Open and unfettered competition and opportunity remains the best instrument for effective public procurement.	Left in General Laws subcommittee

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	<p>in every contract for goods or services the following provisions: During the performance of this contract, the contractor agrees to (i) post in conspicuous places, available to employees and applicants for employment, a statement notifying such persons that only citizens of the United States, legal resident aliens, and individuals with a valid visa will be hired to perform the services under the contract or any subcontract of such contract; (ii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor will hire only citizens of the United States, legal resident aliens, and individuals with a valid visa to perform the services under the contract or any subcontract of such contract; and (iii) include the provisions of the foregoing clauses in every subcontract or purchase order, so that the provisions will be binding upon each subcontractor or vendor.</p> <p><b>§2.2-4312.1</b></p>	<p>Implementation of the provision would result to the production of procurement documents that are voluminous and difficult to understand and contracts that may be practicably impossible to enforce.</p>	
HB 220	<p><b>Public Procurement Act; consolidation of contracts.</b> Provides that to the maximum extent practicable, public bodies shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers. Before proceeding with a procurement of goods, services, or construction that could lead to a contract containing consolidated procurement requirements (also known as contract bundling), a public body shall conduct market research to determine whether consolidation of the requirements is necessary and justified. For the purposes of the bill, consolidation of the requirements may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the public body would derive from the consolidation measurably substantial benefits, including, but not limited to: cost savings, quality improvement, reduction in acquisition cycle times, better terms and conditions, and any other benefit.</p> <p><b>adds §2.2-4304.1</b></p>	<p><b>ADV:</b> The legislation requiring public bodies to conduct market research before proceeding with the procurement of goods, services and construction for 'consolidated' requirements is ambiguous and not supportive of measures aimed at increasing the efficiency of government purchasing. The identification of consolidated requirements is nebulous and the explanation of the bill's benefits are confusing. The proposed legislation does not give adequate consideration to the efficiencies for 'consolidated' procurements, it is anticipated that losing the ability to consolidate requirements will have a significant financial effect on public bodies, resulting in higher costs and longer lead times for purchases. This would be especially true for construction contracts where public bodies depend on</p>	Left in General Laws subcommittee

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		general contractors to provide turn-key projects. Implementation of the statute would likely result in requiring staff increases associated with conducting the various market research requirements included in the bill. The intent of the bill seems to be aimed at increasing annual expenditures with small and minority businesses.	
HB 1305	<b>State and Local Government Conflict of Interests Act; prohibited contracts.</b> Prohibits state and local officers and employees from having a personal interest in interim or comprehensive agreements entered into under the Public-Private Education Facilities and Infrastructure Act and Public-Private Transportation Act. Under the bill, a personal interest would be allowed for certain local officials if the remaining members of the governing body, by written resolution, state that the agreement is in the public interest and there is only one source practicably available. <b>amend and reenact §§ <a href="#">2.2-3106</a>, <a href="#">2.2-3107</a> and <a href="#">2.2-3108</a></b>	<b>NOSIG:</b> Support intent to prevent conflict of interest.	Left in General Laws subcommittee on 2/15
HB 1591	<b>Office of Small Business Advocacy; Director; duties; reports.</b> Establishes within the Department of Business Assistance, the Office of Small Business Advocacy (the Office). The director of the Office shall, under the direction and control of the director of the Department, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the director of the Department. <b>adding in Chapter 9 of Title 2.2 a section numbered <a href="#">2.2-904.1</a></b>	<b>NOSIG:</b> See HB 1228. The only difference between the two bills is the definition of a small business. The bill creates the Office of Small Business Advocacy within the Dept. of Business Assistance.	Left in House Appropriations Committee
HB 1255	<b>Department of Corrections; privatization of food service.</b> Requires the Department of Corrections to increase, by 10% per year for Fiscal Years 2007 through 2010, the amount contracted for private provision of food service at correctional facilities. <b>§ <a href="#">53.1-262</a></b>	<b>NONE</b>	Left in Militia, Police, and Public Safety 2/15

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