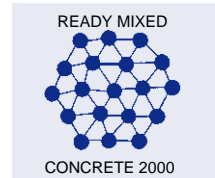


The

READY-MIXER

Virginia Ready-Mixed Concrete Association
630 Country Green Lane
Charlottesville, VA 22902-6478
Phone: 434-977-3716 Fax: 434-979-2439



newsletter

January 2005

Transportation Funding Update

At the end of the second week of the General Assembly, the Governor's transportation proposal and another from the House Republican Caucus is getting a great deal of attention.

Though the construction and construction materials industries should support any initiatives to increase funding, neither of these two approaches solves the long term sustainable funding needed to solve Virginia's highway crisis.

Governor's \$824 Million Proposal

End deficit financing:

\$256.4 million

Additional funding for six-year plan projects:

147.0 million

Promote PPTA projects:

140.0 million

Promote rail partnerships:

23.0 million

Assistance to localities to take over maintenance and construction:

80.0 million

Promote transit partnerships:

80.0 million

Maintain bridges and highways:

97.4 million

Total: \$823.8 million

Republican House Caucus Proposal Revenues

Deposit of Insurance Premiums (VTA of 2000):

\$274.9 M

Restoration of TTF Diversion (One-Time):

90.0 M

Transfer 3 percent Rental Tax to Transportation:

23.2 M

Transfer \$2.00 Driver's Record Fee to Transportation:

10.0 M

Civil Fees from "Abusers" bill:

100.0 M

Nongeneral Transportation Funds (One-Time):

296.8 M

Nongeneral Transportation Funds (Recurring):

153.6 M

Total Revenues: \$938.5 M

Appropriations

Commonwealth Transportation Investment Fund:

\$264.9 M

Public Private Partnership Incentive Fund:

60.0 M

Local Congestion Mitigation Fund:

75.0 M

Rail Enhancement Fund:

33.2 M

Transit Capital Funding:

40.4 M

Accelerate Pay Down of Completed Highway Projects:

256.4 M

Additional Six-Year Program Funding:

208.6 M

Total Appropriations: \$938.5 M

It is also expected that the Senate will introduce a legislative/budget proposal.

There are also individual proposals, including attempts to protect the Transportation Trust Fund from transfers to the General Fund that must be supported by the highway construction industry.

A constitutional amendment would be the

strongest solution, but the Senate may not approve that strong an approach—instead passing **legislation** to protect the TTF.

As you will remember, the budget overrides legislation and a constitutional amendment overrides the budget.

However, legislation that requires a super majority should be almost as effective, as the public will not recognize the difference and legislators will have to "think twice" to appropriate from the fund.

No matter which approach is taken by the legislature, it will be two sided—the TTF will be protected from the General Fund, but the General Fund will be protected from borrowing or raids from transportation with the exception of the 1/2% sales tax now going to transportation.

The industry's package of fuel tax increases, increasing the titling tax 1/4% per year for four years, and an increase in registration fees has been forced to be brought up in 2006.

However, Delegate Hamilton of Newport News, has introduced, at our request, a bill to index the fuel tax for inflation.

We have had the legislation drafted, but we are going to face severe problems getting strong patrons to introduce it.

The no-taxers are still very strong, and the 17 Republican moderates in the House are already feeling pressure regarding the November 2005 House elections.

Accordingly, we hope that major portions of the House Republican's and Governor's programs will pass, though not long-term sustainable solutions, they will stop the hemorrhaging.

If you have any ideas or receive any helpful input from legislators, please let us know promptly.

Mark your Calendar!

Upcoming LEED Seminar

The Virginia Chapter of ACI is pleased to present a seminar on LEED (Leadership in Energy and Environmental Design). It is difficult to view any industry journal and not see an article on LEED.

LEED was created to define "green building" by establishing a common standard of measurement.

There is much more provided in the framework for assessing building performance.

The members of the U. S. Green Building Council "emphasize state of the art strategies for sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality."

Please join us on February 8th at the Ramada 1776 in Williamsburg for all the details!!

The registration form is enclosed.

Safety Committee Expanded

Under the direction of David White, Director of Corporate Safety and Industrial Hygiene of Titan America, the VRMCA Safety Committee is broadening its activities.

At an organization meeting activities such as newsletter articles, seminars, driver training and materials for company safety meetings will be discussed and plans established for 2005.

The committee will also oversee the 2005 Truck Roadeo.

Any members that are interested in joining the committee can contact David in Richmond at 804-236-4134.

VIRGINIA CHAPTER

AMERICAN CONCRETE INSTITUTE



Presents:

LEED – An Overview

Speaker: Karl Bren, U. S. Green Building Council, Richmond Chapter

LEED is The Green Building Council's leading for voluntary national standard for developing high-performance sustainable buildings. LEED emphasizes state of the art strategies for sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality.

LEED is short for Leadership in Energy and Environmental Design. LEED is quickly becoming a focus in design and construction and is beginning to influence the ready mixed concrete industry in Virginia. This program is presented to provide a way to understanding LEED and its impact on the concrete industry now and in the future.

Tuesday, February 8, 2005
RAMADA INN 1776, Williamsburg, VA

725 Bypass Road
Williamsburg, VA 23185

11:00 – 11:30 Registration
11:30 – 2:00 - Luncheon / Presentation / Q&A

Cost: ACI / USGBC Members:	\$30.00
Non-Members:	\$40.00
Students:	\$15.00

Please make reservations by February 1, 2005. Payment made to Virginia Chapter ACI.

Name (s): _____

Firm: _____ Telephone: _____

Number _____ @ \$30.00 = _____

----- @ \$40.00 = _____

----- @ \$15.00 = _____

Total amount enclosed \$ _____

Mail or FAX Reservations to: Virginia Chapter – ACI, PO BOX 6068, Newport News, VA 23606

Phone: 804.342.0409

Fax: 757.887.3269

No-shows and cancellations after the deadline will be invoiced.

2005 GENERAL ASSEMBLY

VRMCA lobbyists are monitoring the following legislation currently before the 2005

Virginia General Assembly, which convened January 12.

HB 1496 Possession of Open Container of Alcohol in a Motor Vehicle; Penalty. Provides that no person shall possess an alcoholic beverage in the passenger area of a motor vehicle upon a public highway of the Commonwealth in other than the manufacturer's unopened, original container. The bill punishes violation with a civil penalty of \$25. Patron: Purkey.

HB 1504 Business, Professional and Occupational Licensing Tax (BPOL); License Fees, Rates and Requirements. Requires localities that impose the BPOL tax to (i) eliminate license fees by January 1, 2007, (ii) exempt the first \$100,000 of gross receipts from taxation by January 1, 2007, and (iii) reduce the several different rates currently in the Code to a flat rate of 20 cents per \$100 of gross receipts for license years beginning on and after January 1, 2006. Patron: Shuler.

HB 1506 Estate Tax. Exempts from the estate tax (i) all estates where the majority of assets are an interest in a closely held business, including working farms, and (ii) all estates where the gross estate is worth \$10 million or less. Patron: Shuler.

HB 1526 VDOT Noise Abatement policies. Provides that whenever (i) there is a conflict between published noise abatement policies of the Department and those published by the federal highway administration or other federal agencies under authority of the National Environmental Policy Act or any amendments thereto or (ii) the noise abatement policy of the Department is silent as to a situation or circumstance covered by a policy published by the federal highway administration or other federal agencies under authority of the National Environmental Policy Act or any amendments thereto, the provisions of the federal policy shall be controlling. The provisions of the bill apply to all highways and highway maintenance or construction projects, regardless of federal funding or the lack of such federal funding. Patron: Frederick.

HB 1527 Audits of Virginia Department of Transportation. Requires that, beginning July 1, 2005, and at least once every two years thereafter, the Commonwealth Transportation Commissioner must accept contract proposals from private companies for the purpose of conducting thorough, comprehensive, and independent audits of the Department of Transportation. The major purpose of any such audit will be to ensure that taxes and fees dedicated to transportation purposes are actually expended for transportation infrastructure construction, improvement, and maintenance, and are not wasted on unnecessary and unproductive bureaucracy. Patron: Frederick.

HB 1528 HOV facilities. Bars trucks and tractor-trailer combinations from HOV facilities, except for vehicles of public utility companies operating in response to emergency calls. Patron: Frederick.

HB 1536 Keep Our Promise Act of 2005; car tax relief. Removes the cap on the overall amount of car tax relief that was created by Chapter 1 of the Acts of Assembly of 2004 Special Session I and restores the car tax relief program as it was originally enacted. Patron: Frederick.

HB 1548 Special Revenue Sharing Funds for certain towns; highway maintenance and construction funding. Authorizes the establishment of special revenue sharing funds for towns, similar to those authorized under § 33.1-75.1 for counties, to aid in highway projects undertaken jointly by towns and adjoining counties. Allocations by the Commonwealth Transportation Board would be made "off the top" of other allocations to match up to \$500,000 in town general funds. Operation of these funds would parallel those established for counties. Patron: Scott, E.T.

HB 1551 Sale Price of Motor Vehicles Subject to the Motor Vehicle Sales and Use Tax. Reduces the taxable price of a motor vehicle purchased for business purposes in determining motor vehicle sales and use tax liability, by the value of any motor vehicle taken in trade. The amount of credit for a vehicle taken in trade is the lesser of the allowance given by the seller or the wholesale value of the vehicle as specified in a recognized pricing guide. Patron: Alexander.

HB 1552 Sale Price of Motor Vehicles Subject to the Motor Vehicle Sales and Use Tax; Reduction for Trade-In. Reduces the taxable price of a motor vehicle for purposes of determining motor vehicle sales and use tax liability by the value of any motor vehicle taken in trade. The amount of credit for a vehicle taken in trade is the lesser of the allowance given by the seller or the wholesale value of the vehicle as specified in a recognized pricing guide. Patron: Alexander.

HB 1560 Biennial Budget; Failure to Enact. Provides for the continuation of the budget in effect through June 30 of an even-numbered year for the next fiscal year in the event that the General Assembly fails to enact a biennial budget by May 1 of that even-numbered year. Patron: Marshall, R.G.

HB 1563 Assessment of Fees by Department of Motor Vehicles (DMV) on Certain Drivers; Use of Fees Collected. Requires the DMV Commissioner to impose and collect fees on drivers who have accumulated more than six net driver demerit points or have been convicted of reckless driving, aggressive driving, driving on a suspended or revoked license, DUI, or any other misdemeanor involving operation of a motor vehicle. These fees, minus cost of collection, will be used to support issuance of bonds whose proceeds are to be used for transportation construction, reconstruction, maintenance, maintenance replacement, and/or improvement

projects. Patrons: Rust, Albo, Frederick, Marshall, D.W. and Oder; Senators: Mims and O'Brien.

HB 1564 Assessment of Fees by Department of Motor Vehicles (DMV) on Certain Drivers; Use of Fees Collected. Requires the courts to impose, in addition to any other penalties imposed, civil penalties on drivers convicted of certain offenses: \$100 for speeding at least 15 but not more than 19 miles per hour above the posted speed, \$250 for driving while his driver's license was suspended or revoked, \$300 for reckless driving or aggressive driving, and \$500 for driving while intoxicated. These fees, minus cost of collection, will be used to support issuance of bonds whose proceeds are to be used for transportation construction, reconstruction, maintenance, maintenance replacement, and/or improvement projects.

The bill also revises the schedule of driver demerit points to be awarded for speeding so that speeding 1-9 mph carries three points, 10-14 mph carries four points, 15-19 mph carries five points, and 20 mph or more carries six points. Patrons: Albo, Rust, Frederick, Marshall, D.W. and Oder; Senators: Mims and O'Brien.

HB 1602 Environmental Impact Reviews. Requires state natural and historic resources agencies to complete their reviews and comments on a highway or road construction project funded by the Commonwealth Transportation Board within six months of the date the project is funded. Patron: Fralin.

HB 1609 Charlottesville Bypass. Requires that, if the U.S. Route 29 bypass is not constructed and reimbursement of federal funds expended in connection with that project is required, the amount of such reimbursement shall be deducted from funds allocated or allocable to primary system projects in Charlottesville and Albemarle County, rather than from funds allocated or allocable to the Culpeper Highway Construction District. Patron: Cole.

HB 1610 Sales and Use Tax; Allocation of Revenue. Increases the sales and use tax revenue dedicated to the transportation trust fund from an amount equivalent to the amount raised by a one-half percent tax to a three-quarters percent tax. Patron: Cole.

HB 1636 Motor Vehicle Rental Taxes. Requires that all revenue from the state motor vehicle rental taxes be deposited into the Transportation Trust Fund and used solely for transportation purposes. Patron: Cole.

HB 1650 Transportation Bonds; Use of Surplus Revenues to Pay Debt Service. Requires surplus revenue collections, after deposits are made to the Revenue Stabilization Fund and the Water Quality Improvement Fund, to be deposited in the Transportation Trust Fund and used to pay debt service on previously issued transportation bonds. Patron: Orrock.

On-Site Tilt-Up Demonstration in Roanoke

By Bob Nablo
Director of Industry Services, Western Region

After months of trying to find an appropriate demonstration project, the SW Virginia Council held an on-site visit to the new Parkway Wesleyan Church in Roanoke on January 11, to observe the tilting of wall panels for this two-story, 70,000 square foot facility.

Regional architects and engineers were invited to attend a pre-demonstration seminar on tilt-up techniques at the Chandler Concrete conference room and then ride a chartered bus to the construction site. Forty-four architects and engineers signed up for the event.

Council Chairman George Kuhn welcomed the group and reminded them of the SW Council's interest in maintaining a steady partnership with the Blue Ridge AIA Chapter.

This seminar/demonstration is the third event sponsored by the SW Virginia Council for local AIA members. Bob Nablo followed with a brief overview of the history of tilt-up construction and some comments on wall panel placement and lifting. Robert Lindsey spent some time describing the process leading up to the panel erection.

Lindsey also talked about other local tilt-up buildings and told attendees about things to look for and expect during the live demo.

Parkway Wesleyan sits on a hill with a commanding view of the community below, and was designed from the beginning as a tilt-up project.

TMA Int'l of Valdosta, GA is an architectural firm that specializes in church design, and routinely recommends tilt-up as an economical,

efficient construction method. The prime contractor is Kodiak Constructors of Charlotte, North Carolina.

Project Manager, Dickie Byrd, arranged for the group to visit the site and said that Kodiak was pleased to have such a large group of design professionals look at the process.

Recognition also must go to the concrete sub-contractor, Guy Blank Concrete of Georgetown, South Carolina, the concrete finisher, MEB of Manassas, Virginia, and Chandler Concrete, the ready-mixed supplier.



Attendees view the tilt-up construction demonstration.

T & M Tilt-Up of Bethlehem, Georgia, the tilting contractor, was ready with a large panel when the group arrived and the lift was completed without a problem.

Visitors closely observed the panel placement on shims, the bracing system and the moving of lifting cables from one panel to another. Several panels were lifted during the visit and architects had ample opportunity to ask questions and "kick the tires."

The entire operation was clean, efficient and very professional. The project has taken less than three months from start date to wall panel erection.

The SW Virginia Council was very pleased with this first construction site visit, and comments from the architects and engineers were quite favorable.

Special thanks go to Council members Robert Lindsey, Larry Tate and Chip Scruggs for arranging the event.

The following is the outline of the new NVCAC format.

Chairman Role: Provide leadership and direction for the group; work with VRMCA consultant to ensure the goals are followed; plan monthly meetings; write meeting agenda and distribute one week in advance of the meeting to chairmen; attend all committee meetings; motivate group; and cover previous month's "Action Items" to ensure goals are moving forward.

Vice-Chairman Role: Assist the Chairman and prepare for the following year when this person will run the meetings, take the action items that the group talks about and get them to the Secretary/Treasurer for distribution.

Secretary/Treasurer Role: Handle taking the minutes at meetings, receive and disburse checks; attend every meeting to give treasurer report and take notes and distribute those notes to VRMCA in Charlottesville within two weeks following the meeting.

Residential Promotion Committee Role: This team will cover ICF, residential concrete paving, and residential decorative concrete; set goals for the upcoming year; follow up on action items month to month; and meet every other month to report on activities during the Council meeting.

Commercial Promotion Committee Role: This team will focus efforts on Tilt-Up schools, concrete parking lots, and commercial decorative concrete; set goals for the upcoming year; follow-up on action items month to month and meet every other month and report on activities during the Council meeting.

Education Committee Role: This team will work with the other teams to organize any education training portion of any event (such as golf outing); the technical training for the roundtable; maintain the list of media contacts; maintain the website with any updates for ready mix suppliers, contractors and basic concrete information and distribute any communication from the Chairman regarding meetings, agendas, sign-up sheets, etc.

VRMCA Consultant Role: Communicate with the Council Chairman regularly regarding various projects and all the promotional activities; assist the Chairman to establish the agenda for monthly Council meeting; help the committees maintain focus on their goals and keep them motivated; work with committee chairmen and all the members in their Council's promotional activities; build relationships with architects, engineers, various County and Public School officials through education and ongoing follow through; conduct educational seminars, site tours and demonstrations for architects, engineers and various public officials on Tilt-up Schools, ICF and Architectural Concrete; work with different specifiers to increase concrete market share; explore other potential markets; develop a complete awareness of projects in the region; maintain an up-to-date data base for future reference; network with producers, shippers, other regions promoters and NRMCA; work with other regions promoters on developing educational and motivational workshops and assist the Council to

New Approach for More Productivity in the Northern Virginia Concrete Advisory Council

By Hessam Nabavi, R.A.
Director of Industry Services, Northern Virginia

In the past two years, I have been involved with the activities of the NVCAC and various committees. Even though as a team we have had a lot of accomplishments, we believe we can accomplish a lot more if we have more member participation in the goals of the council.

It is easy to see that too few are doing too much—the "Rule of 20/80." This led to several conversations and ultimately a meeting with Diggs Bishop and Doug Easter. We discussed subjects such as expectation, attendance, accountability, and member burn-out, etc.

Diggs Bishop suggested having a meeting with all the members for a wide-open, brain storming session. The main purpose of the meeting was to decide what we do well and what needs improvement.

A new format was suggested where the Council meets one month and committees meet at the same location and at the same time, the following month. Another suggestion was to look at paring down or combining committees, in an attempt to eliminate "committees of one," and to have more member involvement in each committee.

Legislation

Continued from page 2

HB 1714 Garnishment; Increasing Maximum Portion of Protected Disposable Earnings. Increases the amount of a worker's aggregate disposable earnings protected from garnishment. Currently, the amount subject to garnishment may not exceed the lesser of (i) 25 percent of the worker's disposable weekly earnings or (ii) the amount by which his disposable earnings exceed 30 times the federal minimum hourly wage. This bill would raise the federal minimum wage multiplier from 30 to 40. Patron: Kilgore.

HB 1744 Income Tax Credit; Purchase of Machinery and Equipment for Processing Recyclable Materials. Extends from 10 years to 20 years the carryover period for individual and corporate income tax credits allowed for the purchase of machinery and equipment for processing recyclable materials. The bill also revives the individual income tax credit for such purposes that expired on January 1, 2004, retroactively to that date. Patrons: Putney and Byron; Senator: Newman.

HB 1784 Subdivision Street Standards. Allows county boards to establish standards for subdivision streets that differ from VDOT standards. If they do so, the amount of money allocated or allocable to the county for secondary system construction is not to be reduced. Patrons: BaCote; Senator: Locke.

HB 1815 Commonwealth Transportation Expedition Fund. Dedicate one-half of all insurance license tax revenues to expedite transportation projects throughout the Commonwealth that are within two years of completion. The Commonwealth Transportation Board shall use the funds to expedite the completion of those transportation projects that it determines will have the greatest impact on (i) reducing poor air quality, (ii) reducing traffic congestion, and (iii) aiding the safety of motorists or pedestrians. Patron: Marshall, R.G.

HB 1823 Zoning Ordinances; Transportation Requirements. Provides that in determining the transportation requirements of the community, and prior to adopting a zoning ordinance or any amendment thereto, the locality shall conduct an assessment of road improvement needs within the locality and determine the impact of any proposed zoning amendment upon the existing road capacity. If a proposed zoning amendment will cause existing roads to exceed capacity, or if the impacted roads already exceed capacity, the proposed rezoning shall not be approved until the locality adopts a plan to fund road improvements necessary to meet road improvement needs and impacts. Patron: Frederick.

HB 1825 Town of Dumfries; Construction of Debris Barrier. Authorizes the Town of Dumfries to use the I-95 right-of-way to construct a barrier to prevent the deposition of highway debris on property abutting the right of way. Costs of construction are to be paid out of funds allocated for primary system highway construction in the Northern Virginia District. Patron: Frederick.

HB 1849 Department of General Services; Light-Colored Roofing and Other Materials for State Buildings. Requires the Division of Purchases and Supply to adopt regulations that require state public bodies to procure only light-colored materials for paving state parking lots and to provide for waivers of this requirement when the Division of Purchases and Supply determines that a bona fide operational, temporary, safety, or specific aesthetic need is indicated or that such paving materials are not cost effective over the life cycle of the materials. The bill also requires the Division of Engineering and Buildings to adopt standards requiring the installation of light-colored roofing materials during construction of new state buildings and for replacement roofing on existing state buildings to ensure energy savings and reduce reflective heat. The roofing standards shall include provision for waivers of this requirement when the Division of Engineering and Buildings determines that a bona fide operational, temporary, safety, or specific aesthetic need is indicated or that such roofing materials are not cost effective over the life cycle of the materials. Patron: Eisenberg.

HB 1855 Transportation Construction and Reconstruction. Specifies actions that must be taken (i) by VDOT prior to undertaking any highway construction or reconstruction project in Northern Virginia if the project involves construction of new traffic lanes or modification of existing lanes (ii) by any state agency in connection with any highway construction or reconstruction project under the Public-Private Transportation Act of 1995. Patron: Eisenberg.

HB 1910 Estate Tax. Removes the estate tax from those estates (i) valued at \$10 million or less, or (ii) of which a majority of the assets are an interest in a closely held business, including a working farm. Patron: Baskerville.

HB 1945 Public-Private Education Facilities and Infrastructure Act of 2002; Definition of Qualifying Project. Expands the definition of "qualifying project" to include any improvements necessary or desirable to any unimproved state-owned real estate. Patron: Saxman.

HB 1954 Highway Construction, Maintenance, and Improvement Contracts. Gives the Commonwealth Transportation Commissioner authority to let all contracts for highway construction, maintenance, and improvements up to \$10 million in value instead of the present \$2 million. Patron: Jones, D.C.

HB 1965 Transient Occupancy Tax; Prince George County. Authorizes Prince George County to impose a transient occupancy tax up to 5 percent. All revenues collected from that portion of the tax in excess of two percent shall be designated and spent by the county solely for constructing public infrastructure for a public water supply, including the payment of any debt service on bonds or other obligations issued for such purposes, (i) that will allow for the construction of hotels, motels, restaurants, conference centers, and other tourism-related businesses located in an enterprise zone within the county; and (ii) that will be provided predominantly to nonresidential customers. Patron: Ingram.

HB 1968 Parking. Grants counties with populations of more than 500,000 and the towns

within those counties expanded powers to regulate parking of large, heavy vehicles within their boundaries. Patrons: Amundson, Reese, Rust, Scott, J.M. and Sickles.

HB 1972 Northern Virginia Transportation District Program. Allocates funding to the Route 28/Sterling Boulevard interchange in Loudoun County. Patron: Black.

HB 2020 Use of Steel Plates in Highway Repairs. Requires that any person who uses steel plates in connection with highway repairs to follow VDOT standards as to warnings and markings. Patron: Welch.

HB 2047 Commonwealth of Virginia Higher Educational Institutions Bond Act of 2005. Authorizes the Treasury Board to issue general obligation bonds of the Commonwealth, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, in an aggregate principal amount not exceeding \$10,563,000, to fund specified capital projects at George Mason University, University of Virginia's College at Wise, and Virginia Military Institute. The bill states that an emergency exists and that the bill is in force from its passage. Patron: Callahan.

HB 2048 Virginia Public Building Authority; Museums and Cultural and Arts Facilities. Authorizes the Virginia Public Building Authority to issue bonds in a principal amount not to exceed \$85,625,000 to fund and construct specific capital projects for museums and cultural and arts facilities in the Commonwealth. Patron: Callahan.

HB 2065 Taxation; Nonresident Contractor Withholding. Establishes a procedure for withholding taxes from nonresident contractors based on the contract price. Patron: Parrish.

HB 2084 Commonwealth Transportation Board. Clarifies the roles of the Commonwealth Transportation Board and local governing bodies when the latter administer VDOT-financed projects. The bill also corrects obsolete cross-references. Patron: Watts.

HB 2092 Sales and Use Tax; Exemption for Certain Contractors. Exempts from paying the sales and use tax any person who contracts to perform services for and provides 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. Patron: Hugo.

HB 2093 Financing of Transportation "Enhancement" Projects. Requires that, in financing "enhancement" projects undertaken using federal grants to homeowners associations, no more than two percent of any such grant can be spent for environmental studies or other studies and activities preliminary to construction. Patron: Hugo.

HB 2099 Transportation Investment Act. Provides long-term funding of transportation projects throughout the Commonwealth by dedicating all insurance license tax revenues for such purpose. The Commonwealth Transportation Board is authorized to issue revenue bonds using no more than one-third of the insurance li-

Legislation

Continued from page 4

cense tax revenues for debt service on the bonds. The amount of insurance license tax revenues not used for debt service, plus the proceeds of the bonds, are allocated to each highway construction district for transportation projects on a pro rata basis according to population. The transportation projects to be funded shall be determined by the Commonwealth Transportation Board. Patron: Hugo.

HB 2151 Virginia Public Procurement Act; Preference for Virginia Firms. Provides that whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference shall be allowed to the lowest responsible bidder who is a resident of Virginia. Currently, a preference for Virginia resident may be given. Patron: Amundson.

HB 2160 Income Tax and Sales and Use Tax Revenue; Allocation of Certain Growth for Transportation. Allocates 20 percent of the annual growth in income tax and sales tax revenue coming from Northern Virginia and Hampton Roads back to those regions for transportation purposes. The Northern Virginia Transportation Authority administers the funds for transportation projects in Northern Virginia. The bill creates the Hampton Roads Transportation Authority to administer the funds for transportation projects in the Hampton Roads area. Patrons: Reese, Albo, Rust and Sickles; Senator: Cuccinelli.

HB 2224 Transportation Construction and Maintenance. Revises Virginia's transportation construction and maintenance allocation system in accordance with recommendations made by the Joint Legislative Audit and Review Commission to the 2002 Session of the General Assembly. Patron: Rust.

HJR 527 Constitutional Amendment (First Resolution); Highway and Transportation Trust Funds. Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund established in 1986 will be permanent and separate funds and will be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes or reduce the level of required appropriations to the Funds only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid with reasonable interest within four years. Patrons: McDonnell, Lingamfelter, Albo, Bell, Callahan, Cline, Cole, Cosgrove, Cox, Dudley, Ebbin, Eisenberg, Fralin, Frederick, Griffith, Hamilton, Hargrove, Hugo, Ingram, Johnson, Jones, D.C., Landes, Louderback, Marshall, D.W., McQuigg, Nutter, Oder, Parrish, Petersen, Plum, Rapp, Rust, Saxman, Scott, J.M., Suit, Tata, Ware, R.L. and Wright; Senators: Bolling, Edwards, Mims, Wagner and Williams.

HJR 541 Constitutional Amendment (First Resolution); Transportation Trust Fund. Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and receive all revenues generated by the 1986 package of tax and fee increases and any later enactments dedicating additional revenues to the Fund. The amendment limits the use of Trust Fund moneys to purposes of highway construction, maintenance, and improvements, public transportation, railways, seaports, and airports. The General Assembly may use fund proceeds for other purposes only by a two-thirds vote of the members in each house. However, fund proceeds used for other purposes must be repaid to the Fund within three years. Patron: Marshall, D.W.

HJR 547 Constitutional Amendment (First Resolution); Enactment of Tax Laws. Requires that any law that imposes, continues, increases, or revives a tax must be approved either: (i) by a four-fifths vote of the members voting in each house of the General Assembly; or (ii) by a majority vote of all members voting in each house of the General Assembly and by a majority of the people voting in a referendum on the question of whether the law shall take effect. Patron: Frederick.

HJR 549 Constitutional Amendment (First Resolution); Limit on Appropriations. Limits total appropriations in any fiscal year to the preceding year's total appropriations plus the greater of (i) five percent, or (ii) a percentage increase equal to the rate of inflation plus the rate of population increase. However, additional appropriations may be made (a) for tax relief, (b) for deposits to the Revenue Stabilization Fund, and (c) nonrecurring capital projects. "Total appropriations" is defined so as not to include moneys appropriated that are received from the federal government or an agency or unit thereof. Patron: Frederick.

HJR 550 Constitutional Amendment (First Resolution); Highway Maintenance and Operating Fund and Transportation Trust Fund. Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund shall be permanent funds.

Starting with the Commonwealth's fiscal year beginning July 1, 2006, the General Assembly shall appropriate to each Fund an amount no less than the amount appropriated to the respective Fund in the immediately preceding fiscal year.

The amendment limits the use of Trust Fund moneys to highway construction, maintenance, and improvements, public transportation, railways, seaports, and airports. The General Assembly may use fund proceeds for other purposes only by a four-fifths vote of the members in each house. However, fund proceeds used for other purposes must be repaid to the Fund within four years. Patron: Frederick.

HJR 551 Study; Highway Noises Abatement. Establishes a six-member joint subcommittee to conduct a two-year study to identify materials, technologies, techniques, actions, and strategies related to both highway planning and construction in order to identify those that will provide the greatest amount of noise abatement for the lowest cost, and the situations in

which each of them may best be employed. Patron: Frederick.

HJR 559 Constitutional Amendment (First Resolution); Budget and Appropriations Bills. Provides that no legislation to appropriate state revenues may be proposed or enacted that depends on revenues that must be authorized by law but that have not been authorized by law as of the date such legislation is proposed. Patron: Marshall, R.G.

HJR 562 Constitutional Amendment (First Resolution); Special Transportation Funds. Provides that the Highway Maintenance and Operating Fund and Transportation Trust Fund will be permanent funds and be funded annually by the General Assembly by appropriations equivalent to the revenues appropriated to the Funds for fiscal year ending June 30, 2004. The amendment limits the use of Fund moneys to various transportation purposes. The General Assembly may borrow from the Fund for other purposes only by a two-thirds vote of members in each house and the loan must be repaid within four years. Any reduction in appropriations to either Fund will be treated as a borrowing from the Fund. Patron: Black.

HJR 563 Constitutional Amendment (First Resolution); Highway and Transportation Trust Funds. Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund established in 1986 will be permanent and separate funds and will be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes. Patron: Fralin.

HJR 585 Constitutional Amendment (First Resolution); Highway and Transportation Trust Funds. Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund established in 1986 will be permanent and separate funds and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the funds. The amendment limits the use of fund moneys to transportation and related purposes. The General Assembly may borrow from the funds for other purposes or reduce the level of required appropriations to the funds only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid within four years. Patron: Marshall, R.G.

HJR 599 Department of General Services; Construction Contracts. Encourages the Department of General Services to recognize and incorporate the Leadership in Energy and Environmental Design (LEED) Green Building Rating System energy, environmental, and sustainability concepts into state and local practices for the design and procurement of construction projects to the extent such concepts are feasible and reasonable for the particular project. Patron: Van Yahres.

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HJR 600 Local School Boards and Local Governing Bodies; Construction Contracts.

Encourages local school boards and local governing bodies, in cooperation with the Department of General Services, to recognize and incorporate the Leadership in Energy and Environmental Design (LEED) Green Building Rating System into state and local practices for the design and procurement of construction projects to the extent such concepts are feasible and reasonable for the particular project. Patron: Van Yahres.

HJR 601 Boards of Visitors at Virginia's Public Institutions of Higher Learning; Construction Projects. Encourages the Boards of Visitors at Virginia's public institutions of higher education, in cooperation with the Department of General Services, to recognize and incorporate the Leadership in Energy and Environmental Design (LEED) Green Building Rating System into state and local practices for the design and procurement of construction projects. Patron: Van Yahres.

HJR 606 Constitutional Amendment (first resolution); limit on appropriations. Limits total appropriations in any fiscal year to the preceding year's total appropriations plus the greater of (i) five percent or (ii) a percentage increase equal to the rate of inflation plus the rate of population increase. In the event that actual revenues exceed the amount of appropriations for a fiscal year, such surplus may only be used for (a) tax relief, (b) deposits to the Revenue Stabilization Fund, and (c) nonrecurring capital projects. "Total appropriations" is defined so as not to include appropriations: (i) for tax relief, (ii) from surplus funds for nonrecurring capital projects, or (iii) made from moneys received from the federal government or an agency or unit thereof. Patron: McDougale.

HJR 622 Constitutional Amendment (First Resolution); Limit on Appropriations. Limits total appropriations in any fiscal year to the preceding year's total appropriations plus a percentage increase equal to the past two years' average increase in the rate of inflation plus the average percentage increase in population. The amendment provides that any revenues collected in excess of the limitation shall be distributed: 50 percent to the Transportation Trust Fund and 50 percent to be refunded to individual income taxpayers. "Total appropriations" is defined to exclude moneys appropriated that are received from the federal government or an agency or unit thereof. The General Assembly may appropriate funds in excess of the stated limitation by a vote of two-thirds of the members elected to each house. If the amount in excess of the limitation is less than or equal to one percent of the limitation, the total excess shall be deposited to the Revenue Stabilization Fund if that Fund has not reached its constitutional limit or appropriated to the general fund. Patron: Saxman.

HJR 623 Constitutional Amendment (First Resolution); Unfunded State Mandates. Provides that the Commonwealth is prohibited from (i) reducing the state-financed proportion of the

costs of any existing activity or service required of localities or (ii) mandating new activities or services without full funding. Patron: Saxman.

HJR 642 Constitutional Amendment (First Resolution); Transportation Trust Fund. Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and receive all revenues generated by the 1986 package of tax and fee increases and any later enactments dedicating additional revenues to the Fund. The amendment limits the use of Trust Fund moneys to purposes of highway construction, maintenance, and improvements; public transportation; railways; seaports; and airports. Patron: Plum.

HJR 644 Constitutional Amendment (First Resolution); Transportation Trust Fund. Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and receive all revenues generated by the 1986 package of tax and fee increases and any later enactments dedicating additional revenues to the Fund. The amendment limits the use of Fund moneys to purposes of highway construction, maintenance, and improvements; public transportation; railways; seaports; and airports. Patron: Plum.

SB 705 Qualification for Payment of Overtime Compensation. Provides that employers subject to the Fair Labor Standards Act shall pay wages for overtime in accordance with the regulations governing overtime pay that were in effect prior to August 23, 2004, except that the minimum qualifying salary for an exempt employee (i.e., an employee not entitled to overtime) shall be that set forth at 29 C.F.R. § 541.600, effective August 23, 2004.

Regulations effective prior to August 23, 2004 required payment of overtime wages to employees earning wages at or below \$8,060 per year. Employees earning more than \$8,060 could qualify for overtime based on a further evaluation of their duties and responsibilities.

Under the regulations effective August 23, 2004, employees earning less than \$23,660 annually must be paid overtime compensation without consideration of their duties and responsibilities. Employees earning more than \$23,660 may qualify for overtime compensation, depending on further evaluation of their duties and responsibilities. The regulations also distinguish between white collar and blue collar employees and direct that the latter can never be deemed exempt, and require that certain specific groups of employees (such as police officers, correctional officers and emergency medical technicians) are never to be considered exempt. See 29 C.F.R. § 541.3.

At the same time, the regulations effective August 23, 2004 provide that an employee can spend unspecified amounts of time performing nonexempt tasks, yet be found exempt if his "primary duty" is management or supervision of other employees. Under the regulations in effect prior to August 23, 2004, an employee who spent more than 80 percent of his time performing nonexempt tasks was entitled to overtime, regardless of whether his work also involved management or supervision of other employees. See former 29 C.F.R. § 541.112 (providing that

"An employee will not qualify for exemption as an executive if he devotes more than 20 percent...of his hours worked in the workweek to nonexempt work").

The bill retains the threshold wage of \$23,660 established in the regulations in effect on August 23, 2004, and requires the application of the regulations in effect prior to August 23, 2004, for the purposes of evaluating whether an employee earning more than that threshold wage is entitled to overtime compensation. Patron: Miller.

SB 736 Estate Tax. Exempts from the estate tax (i) all estates where the majority of assets are an interest in a closely held business, including working farms, and (ii) all estates where the gross estate is worth \$10 million or less. Patron: Reynolds.

SB 738 Fund to Expedite Construction of I-73 in Henry County. Establishes a special fund to expedite construction of I-73 in Henry County. The Fund consists of the first \$3 million of annual collections of state taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes or any other state revenue allocated for highway purposes. Patron: Reynolds.

SB 750 Rail Transportation Development Authority. Establishes the Rail Transportation Development Authority. The Authority is to be responsible for identifying needed construction, reconstruction, improvements, or repairs to railroads and their facilities and equipment. The Authority is given the power to finance or assist in financing any such rail transportation project. The bill requires the Virginia Department of Rail and Public Transportation, in conjunction with the Authority, to develop a rail transportation plan for the Commonwealth. The bill also repeals Chapter 1041 of the 2003 Acts of Assembly, which provided for the creation of a Rail Transportation Development Authority. That act never became effective because it included a "reenactment clause," and the act was not reenacted by the 2004 Session. Patron: Edwards.

SB 778 Interstate Route 81 Corridor Multistate Transportation Planning Compact. Establishes an interstate compact to improve transportation and transportation planning in the Interstate Route 81 corridor. Patron: Potts.

SB 797 Allocation of Construction Funds Within Secondary System. Provides that secondary road construction funds allocated under § 33.1-23.4 shall be disbursed directly to the county, if so requested by resolution of the governing body. Any county receiving a direct allocation of funds shall certify to the Commonwealth Transportation Board that such funds will be expended exclusively for secondary road projects and according to appropriate standards. Patron: Watkins.

SB 802 Fund to Expedite Improvements to U.S. Route 58 in Carroll, Grayson, and Patrick Counties. Establishes a special fund to expedite construction of improvements to U.S. Route 58 in Carroll, Grayson, and Patrick Counties. The Fund consists of the first \$3 million of annual collections of state taxes on motor fuels, fees and charges on motor vehicle registrations,

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road taxes, or any other state revenue allocated for highway purposes. Patron: Reynolds.

SB 825 Overweight Truck Penalties. Allows all counties, cities, and towns to adopt truck weight limit ordinances, parallel to state law, and to assess and collect penalties for violations of such ordinances and use the proceeds to support either local highway construction and maintenance or local vehicle safety inspection programs. The bill makes other nonsubstantive editorial changes as well. Patrons: Mims; Delegates: Marshall, R.G. and May.

SB 907 Estate Tax. Conforms the amount of Virginia estate tax due from an estate to the maximum amount of the federal estate tax credit for state estate taxes. Under current state law the amount of Virginia estate tax cannot be less than the federal credit under federal law as federal law existed on January 1, 1978. Because under current federal law there is no federal estate tax credit for state estate taxes, the bill effectively eliminates the Virginia estate tax. Patron: Norment.

SB 917 Sales and Use Tax Exemption; Commercial and Industrial Exemptions. Provides a sales and use tax exemption for personal property purchased by a contractor and used solely in any construction project for a local school division. Patron: Blevins.

SB 945 Highway Maintenance by Buchanan County. Authorizes the Board of Supervisors of Buchanan County to expend county funds for the maintenance of highways that provide the sole access to private family cemeteries containing more than 10 graves. Patron: Puckett.

SJ 282 Study; Issues Relating to transportation in the Commonwealth; report. Establishes a joint subcommittee to examine (i) whether the Commonwealth's current classification of roads into primary, secondary, and urban systems is the most suitable for addressing future transportation issues or should be replaced with a functional system that is based upon the usage of roads; (ii) whether the current statutory formula for allocating highway construction funds should be changed to better reflect transportation needs; (iii) the appropriate state and local roles in highway construction and maintenance and the revenue resources that are available to perform such roles; (iv) whether the scope of projects eligible to be built under the Public-Private Transportation Act of 1995 should be more targeted in scope than is currently provided for under the Act and whether the Act should be amended to include private funding requirements from private entities contracting with the government; (v) whether land use and transportation planning decisions should be more integrated and coordinated than is presently provided for under law; (vi) the composition of the Commonwealth Transportation Board; and (vii) such other transportation-related matters as the joint subcommittee deems appropriate. The joint subcommittee shall develop recommendations directed at placing the Commonwealth in the best position for addressing future transportation issues and challenges. Patron: Hawkins.

SJ 310 Constitutional Amendment (First Resolution); Transportation Trust Fund. Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases or the appropriation for the fiscal year

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ending June 30, 2005, whichever is greater. The amendment limits the use of Trust Fund moneys to highway construction, reconstruction, maintenance, and improvements, public transportation, railways, seaports, and airports. The General Assembly may borrow from the Fund for other purposes or reduce the level of required appropriations to the Fund only by a three-fifths plus two vote of members in each house and the loan or reduction must be repaid within four years. Patron: Cuccinelli.

Advisory Council

Continued from page 3

team up with architects, engineers and contractors to promote various applications of concrete.

Meeting Structure: The NVCAC will meet as a group every other month on the second Thursday of the month. During the other months, the meetings will be the same time as our group meetings, but will be dedicated for the committees to meet and work on their goals. Extra meetings can occur anytime they are required outside of these meetings.

We believe that this new format will increase our activities and effectiveness for more accomplishments yet to come.

My Business and the EPA Oil Tank Rules

Concrete, ready-mix, precast and aggregate facilities typically have storage tanks or containers for diesel, gasoline and used oil.

If your facility has more than 1,320 gallons of **total oil storage capacity**, your business falls under additional EPA rules governing the prevention of oil pollution (40 CFR 112).

The EPA's Oil Pollution Program requires that your facility develop and implement a Spill Prevention Control and Countermeasures (SPCC) Plan.

This plan is developed independently from your facility's Storm Water Pollution Prevention Plan though, in practice, many of the recommendations in one plan usually complement the other.

The EPA defines "oil" very broadly to include used oil, heating oil, gasoline, diesel fuel, lubricating and hydraulic fluids, oil mixtures and oily waste sludges.

Does My Business Need a SPCC Plan?

Your business will need to develop a SPCC Plan if you have more than 1,320 gallons of total aboveground petroleum storage capacity (in

containers of 55 gallons or larger), or more than 42,000 gallons of underground tank storage capacity in which there is a potential of oil impacting any navigable water bodies, which the EPA very broadly defines as "the Waters of the United States."

Total tank volume is calculated not by how much you normally store in containers but by the **total storage capacity** of all tanks, totes, drums and equipment greater than or equal to 55 gallons.

When these product containers are summed up, it is very easy to exceed the 1,320 gallon threshold for aboveground oil storage containers.

If you find that you have greater than 1,320 gallons of storage capacity but use or need less than this capacity to operate your business, you should consider reducing or eliminating the unneeded or oversized storage containers.

If, on the other hand, there is no practical way to operate your facility with less than 1,320 gallons of oil storage capacity, then you will need to develop a SPCC Plan to be in compliance with the EPA's Oil Pollution rules.

SPCC Plan Development Requirements

A SPCC Plan should already be in place for all the facilities requiring it, however; all SPCC Plans must be modified by February 18, 2006 to ensure compliance with the most recent EPA oil tank rules.

The terms of the SPCC Plan, such as the construction of secondary containment structures, installation of new tanks and support equipment, etc., must be completed as soon as possible, but no later than August 17, 2006.

All SPCC Plans must be stamped by a Certified Professional Engineer (PE) and reviewed by a PE at least once every five years.

Resources

You can contact us at James Environmental Management, Inc. for additional discussion of this topic or you can look at the EPA website <http://www.epa.gov/oilspill/spcc.htm>.



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The Smart Road bridge, at 175 feet tall, is Virginia's tallest bridge. Approximately 9,647 cubic yards of high-strength concrete were used to construct the 2,000-foot long bridge.

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