

Capitol Report Summary - March 4, 2013



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THE 2013 GENERAL ASSEMBLY SESSION

Personality of this Session

Looking back at each General Assembly Session, certain issues, trends, and personalities of the legislative process emerge. After a contentious and emotional General Assembly the year before, the 2013 General Assembly ended with (dare we say it?) a spirit of bipartisan compromise between legislators and Governor McDonnell. After over 25 years, the legislature passed a significant transportation funding package, leveraging cost savings and new revenues to find a solution to a long-standing problem for the Commonwealth.

In addition to a major transportation funding package, the General Assembly introduced 2,574 bills and resolutions, passed 1,526, and failed to pass 1,370. In addition, the General Assembly acted on amendments to the state's 2-year budget, and successfully completed it's work in the 46-day session-on time!

At it's peak, the Council was actively working on or monitoring over 200 pieces of legislation to ensure our members interests were represented and protected. Looking back on the 2013 General Assembly, it was once again a successful session for the agribusiness community. The highlights of our work on behalf of our members during the 2013 General Assembly are summarized here. As you are aware, our advocacy on your behalf will continue as the Governor takes action on most bills and the regulatory processes and post-session studies begin.

We appreciate your on-going support of the Council, through responding to our inquiries, acting on our action alerts, making contacts with legislators, and sharing

our message with your fellow industry members. We look forward to our continued partnership to ensure a thriving agribusiness community for future generations. Happy Reading!

How Did Your Delegate and Senator Vote?

The Virginia Agribusiness Council will be publishing a Legislator Voting Record for the 2013 Session in the near future. This members-only report will include legislation of particular importance to our agribusiness industry. Look for the website link in a future AgReport.

Interested in how your Delegate voted throughout the 2013 Session on all issues? [Click here](#) to see all floor, committee, and subcommittee votes. The Senate votes are only accessible by clicking on the senate vote in the history of a bill. To search for a bill and find its history [click here](#).

Summary of Key Issues

Budget Items

Our efforts focused on amendments to the states 2-year budget for FY 2013-2014, and included many issues we have worked on over the years. These included supporting the Governor's budget amendments for: incremental funds for the **Weights and Measures Inspection Program**; an additional position to manage the new **Agriculture & Forestry Industries Development Fund**; and a new position to address **Coyote Damage**.

In addition, we advocated and received favorable support for: restoring funds for the **Beehive Grant Program** and the **Purchase of Development Rights Fund** (both cut by the Governor); requiring an annual report to the VDACS Board of **Pesticide Fund** activities; providing additional funding for the **Reforestation of Timberlands Program** and **Soil and Water Conservation District** Operations; and at our land-grant institutions, funding a new **VSU Wildlife Specialist**; funding to begin replacing and relocating the **VT Dairy facilities**; and **operations funds for HABBI 1** (a Cooperative Extension/Ag Experiment building) at Virginia Tech.

Value to You: Ensuring the General Assembly provides adequate funding and support of state programs and investments to support and benefit the Commonwealth's number one industry of agriculture and forestry.

Environment & Water Quality

A proposal to transfer water quality programs from the Dept. of Conservation & Recreation (DCR) to the Dept. of Environmental Quality (DEQ) ([HB 2048](#) and [SB 1279](#)) created quite a stir within the agribusiness industry this session. Without a consensus position from our members, the Council voiced both concerns from our members about consolidating departments and member's thoughts on the positive impacts of streamlining programs with legislators, while seeking improvements to the bills along the way. Two months and 200 pages of negotiating later, [HB 2048](#) and [SB 1279](#) will only move non-agricultural programs (such as stormwater management, erosion & sediment control, and TMDL planning) to DEQ. Soil and

Water Conservation Districts, Nutrient Management Planning, and Resource Management Plans will remain at DCR, and a legislative and agency-head panel will conduct public hearings on DCR programs throughout the coming year across the state.

After many years of seeking additional oversight by a citizen board for programs at DCR, the legislature easily agreed to legislation ([HB 2209](#) and [SB 1309](#)) requested by the Council and our industry partners. Passage of these bills will ensure that Nutrient Management Plan regulations and Soil and Water District funding and oversight are approved by the Soil and Water Conservation Board (made up of farmers and Soil and Water District representatives), instead of the DCR Director.

For the first time in several sessions, urban turf and fertilizer use was not a front-page issue. A proposal to create an urban best management practice cost-share program ([HB 2296](#)) did not advance due to limited funding, but will likely be the subject of further discussions this year. The legislature did approve a measure ([HB 2190](#)) that will establish a procedure for the state to review local stormwater ordinances, particularly those that are more stringent than state requirements.

Value to You: Approval and oversight of key water quality programs will now be made by a Board of peers, and study of efficiencies gained by consolidation of Water Quality programs will continue.

Energy/Electric Utilities

After several years of unsettled discussions, the General Assembly passed an agricultural net metering bill ([HB 1695](#)) this year. With discussions continuing through the last few weeks of session, Electric Utilities and Electric Cooperatives worked with the Patron to address concerns from both sides and amended the original bill to legislation that was supported by most industry sectors. [HB 1695](#) now requires the State Corporation Commission to establish net energy metering programs for eligible agricultural customers who generate energy at their agricultural operations.

Value to you: Resolution to an ongoing issue and the development of programs that will allow for the use of energy produced on the farm.

Food Safety & Inspections

The VDACS food safety inspection programs were at risk once again this year. [HB 1839](#) would have exempted all foods processed or prepared in private homes or farms from VDACS regulations, including meat and dairy products. After the Council educated the subcommittee members about the federal requirements for meat and dairy, and the sometimes fatal consequences of foods that are not properly prepared, [HB 1839](#) died by a unanimous voice vote.

However, the almost-annual bill known as the "pickle bill," did pass this year. [HB 1852](#) expands the products included on the non-hazardous exempted food list, and allows for the sale of potentially hazardous foods, like pickles, relishes and salsas, under certain sales revenue limits. Although the Council did not support this bill, it was viewed by many as a compromise with the hope that it will keep the

proponents of more harmful bills at bay for a little while.

[HB 2092](#), a bill that authorizes the Tax Department to provide VDACS with tax information necessary to identify taxpayers who are subject regulations, such as food establishment inspection, was also approved by both Chambers. This non-controversial bill was supported by the Council and will hopefully reduce the number of establishments that go uninspected until a complaint is filed.

Value to you: The safety of the consumers and integrity of the food products remains largely protected.

Forestry

After an out-of-date definition within the sales tax exemptions for logging equipment led to confusion and misinterpretation by some state personnel, [HB 2054](#) was introduced at the request of the forestry industry. This one-word bill will correct a significant issue for the forest harvesting industry, and allow equipment used for harvesting forest products to benefit from a sales tax exemption.

Value to You: Clarity in the existing law to ensure that forest harvesting operations can rightfully take advantage of a sales tax exemption.

Government Structure

Identical bills [HB 2012](#) and [SB 1331](#), which placed a two year moratorium on the use on unmanned aircraft systems (drones) by state and local law enforcement and regulatory entities, faced many hurdles and amendments throughout session but eventually came out of both chambers. With new drone technology becoming more available and affordable, the two year moratorium will allow for the development of regulations that will limit the use of drones and ensure the privacy and safety of Virginia citizens.

Value to you: The continued protection of property and privacy rights within the scope of government regulations and oversight.

Outdoor Recreation

This session once again saw a flurry of activity surrounding several controversial hunting and outdoor recreation issues, and amongst the drama were two bills quietly "muddying the waters". [SB 880](#) and [SB 737](#) both addressed the issue of public access to waters. [SB 880](#) called for DGIF to inventory state waters that are (and are not) open to the public, and [SB 737](#) attempted to provide a safe-harbor from trespass charges for recreational non-motorized boaters. The bills caused some confusion amongst members of the Senate as they attempted to distinguish between state and private waters, King's grants, and the definition of navigable waters. Neither bill survived the confusion, but the committee did write a letter to DGIF asking them to look into the issue further.

Value to you: Continued trespassing and private property rights protections for King's grant river bottoms and privately owned waterways.

Land Use and Preservation

This year, there were several failed attempts to provide additional certainty for potential conservation easement holders. [HB 1694](#) would have given landowners the option to apply for conditional approval of tax credits over \$1 million in value prior to donation of property. [HB 1462](#) required that the Dept. of Taxation assess the tax credit within one year of claiming the tax credit. While neither bill made it out of subcommittee, the introduction of legislation shows that legislators are continuing to hear from constituents about this issue.

There was also an attempt to eliminate the land preservation tax credit program all together. [HB 2034](#) would have repealed the program, but after hearing about the success of the program, the subcommittee defeated the bill.

One land preservation bill did survive this session; [HB 1398](#) caps the tax credit at \$100 million per year and requires the Governor to allocate additional funds (approximately \$13.9 million in 2013) to the Virginia Land Conservation Fund (80%), the Civil War Site Preservation Fund (10%), and to the Virginia Farmland Preservation Fund (10%).

Value to you: Raised awareness of landowner concerns with the Land Conservation Tax Credit program, and created a dedicated funding source for the Virginia Farmland Preservation Fund.

Miscellaneous - Peanuts, Tobacco, Wine, "VegWeek" and more

Although marked by some legislators as a tax increase, the peanut excise tax ([HB 1320](#) & [SB 698](#)), which maintains the current self-imposed industry tax, moved quickly through both the House and Senate and has already been signed into law by the Governor.

Providing additional clarity in the law for practices at farm wineries, such as allowing contract wine making ([HB 1849](#) & [SB 1127](#)), and allowing wineries to pre-mix wine products like sangria for sale at the winery ([HB 2268](#)), gained easy passage by the legislature this year.

The resolution for "VegWeek" ([HJ 567](#)) failed in subcommittee after members noted that the resolution negatively reflected Virginia's livestock industry. The resolution was introduced at the request of the nonprofit organization Compassion Over Killing.

[HJ 758](#), which designates October as Urban Agriculture Month, did pass both the House and Senate and will be recognized starting this October.

Value to You: Extension of the industry-approved peanut excise tax for an additional three years to fund marketing and research, provision of additional clarity for farm wineries, and recognition of the important role of urban agriculture.

Port of Virginia

After the state received an unsolicited bid to privatize management of the Port of Virginia this summer, legislators filed several different proposals to require

legislative approval prior to change in Port management. As a result, [HB 1692](#) and [SB 977](#) make changes to the Public-Private Transportation Act of 1995 to require public notice of unsolicited bids, a longer time to submit competing proposals, and allow public comment on proposals. In addition, the General Assembly's review arm, JLARC, (Joint Legislative Audit and Review Commission) will be studying the competitiveness, efficiency, and governance structure of the Port of Virginia and reporting back to the legislature in early 2014 ([HJ 621](#)).

Beginning calendar year 2013, [HB 1824](#) will provide a tax credit for increases in volume of product shipped through Virginia's ports to agricultural producers and coal and natural gas producers (in addition to the tax credit already in place for manufacturers). A last minute amendment that excludes wood pellet manufacturers who export their product for overseas energy production is the subject of continued disagreement within the forest products industry. The tax credit is capped at \$250,000 per taxpayer and a cumulative amount of \$3.2 million per year.

Value to You: Additional public input and legislative review of management changes for the Port of Virginia, and a new tax credit to incentivize agribusinesses to ship products through the ports in Virginia.

Right to Farm Act

Virginia's Right to Farm Statute, originally enacted in the 1980's and significantly amended in 1994, was the subject of a heated debate this year, and not between the parties you might anticipate! [HB 1430](#) was introduced as a result of conflicts in one locality this summer and would have drastically expanded the definition of agricultural operations beyond the intent of the existing law. The bill was amended by the House Agriculture Committee, who placed a "re-enactment" clause on the bill (at our request) to require the 2014 legislature to the bill again before it went into effect. We joined with several other industry groups and localities to oppose [HB1430](#), and it was ultimately defeated by the Senate Agriculture Committee.

The proponents of the bill, which included several direct farm-to-consumer operations and a number of vocal supporters, did not agree with our stance that the unintended consequences of the measure were too great of a concern and have vowed to continue the battle next year. In the meantime, VDACS Commissioner Matt Lohr has agreed to coordinate a working group on this subject with a report back to the Agriculture Committees this fall.

Value to You: Avoided unintended negative consequences for agricultural producers of broadening the existing Right to Farm Act, and retained current local laws developed in cooperation with the industry to promote agriculture.

Taxes & Fees

With the Joint Legislative Tax Credit Commission's efforts just getting underway, legislative action on tax credits was limited. [SJ 281](#), a proposed constitutional amendment to place a 5-year limit on every tax credit (new and existing), was defeated on the floor of the Senate after concerns were raised regarding the impact to existing tax credits. We anticipate that over the next few years, we'll see more proposals aimed at ensuring a return on investment from tax credits.

Back again this year were several proposals to address alleged intentional overpayment of local taxes by businesses in order to benefit from interest on the overpayment amount. These bills were all tabled in both the House and Senate after the Virginia Agribusiness Council and other business interests opposed the measures. The Patrons have requested that localities and business leaders study the issue further in over the next few months. ([HB 1329](#), [HB 1534](#), [HB 1578](#), [SB 710](#), [SB 937](#))

A somewhat perennial bill, [HB 1457](#), to re-instate the estate tax at the state level (with revenues being used for nursing homes) was stricken by the patron after being re-referred to the House Rules Committee, where it was likely to meet it's demise.

Value to You: Retention of existing tax credit programs and processes for addressing overpayments of local taxes.

Transportation: Funding, Tolls, and Other Policy Changes

For at least the past five years, transportation funding discussions have dominated almost every General Assembly session. Special sessions have been called by Governors, with no bi-partisan solution resulting. Legislation to fund roads has been passed, only to be stricken down in the courts system. 2013 marked a turning point for transportation funding within Virginia. For the first time in over 25 years, the General Assembly approved a major transportation funding plan by bipartisan votes in both the House and Senate.

[HB 2313](#) is a compromise between the House, Senate, and the Governor's office. The bill will generate over \$880 million in statewide transportation funding annually within five years of implementation through: elimination of the current gasoline tax and replacement with a wholesale motor fuel sales tax; incremental increases in the statewide sales tax rate; additional fees for certain users and purchases; re-direction of general funds towards transportation; and new regional taxes in Northern Virginia and Hampton Roads. The funding package also contains an important prohibition on tolls on I-95 for existing roads. The Council, like many other groups, had identified transportation funding as a critical issue for 2013.

[HB 1953](#) was also approved to provide further funding for Rt. 58 completion to connect southwest and southside Virginia with the eastern portions of the Commonwealth. This will ease access to the Virginia port and points east for producers in the western part of the state.

After receiving the blessing of the state police, [SB 887](#) was approved to increase the distance from 30 miles to 50 miles that farm use vehicles for agricultural and horticultural purposes and the seasonal transportation of produce and livestock may travel. [HB 1985](#), which made a technical change to the vehicle weight limits and overweight permits for potato trucks on the Eastern Shore, was also approved. Two measures ([HJ 586](#) & [SJ 370](#)), which would have encouraged our Congressional delegation to support allowing states to authorize higher weight limits for trucks carrying agricultural and forestry products on interstate highways, did not advance in the Senate due to a policy of not approving Congressional resolutions.

Value to You: Significant funding for construction and maintenance of roads is now in place, allowing for infrastructure investments to get agricultural goods to

market.

Industry Promotions During the Session

The Virginia Agribusiness Council provided leadership and logistical assistance in the delivery of gifts representative of certain sectors of our diverse agribusiness community. These Council members partnered with us in this effort:

- Virginia Soybean Association - The ever popular chocolate-covered soynuts
- Virginia Grain Producers Association - Corn-based coffee travel mugs
- Virginia Wine Council - Bottles of wine, of course!
- Virginia Horse Council - A trio of horse shaped and horse industry themed cookies
- Virginia Nursery & Landscape Association - Baskets of African violets and native flowering plants
- Virginia Egg Council & Virginia Poultry Federation - Miller and Rhoads Tea Room recipe booklets, egg whisk, and meat thermometer
- Virginia Cattlemen's Association & Virginia State Dairywomen's Association - Virginia made beef jerky and cheese
- Maryland & Virginia Milk Producers Cooperative Association and Marva Maid Dairy - Ice cream specialties (that made all the legislators feel like kids again)



(Del. Bev Sherwood and Hobe Bauhan, President of the Virginia Poultry Federation and one of the many members that participated in the deliveries)

We welcome additional participants in the future. Just let us know if your organization would like to join in this enjoyable promotion of Virginia agribusiness to the Governor, Lt. Governor, Attorney General, Governor's Cabinet, and General Assembly members.

After Session Activities

The General Assembly session always generates follow-up activities such as studies, workgroups, and regulations to implement new laws. The 2013 session was no different. If you have a specific interest in any of the issues listed below, [please let us know](#). We will invite you to be a resource and keep you informed as the discussions progress.

Right to Farm (HB 1430) - Although the bill was defeated by the Senate Agriculture Committee, VDACS has agreed to coordinate a working group to examine the issue further over the next 6-8 months.

DCR/DEQ Water Quality Program Consolidation (HB 2048 & SB 1279) - As agreed upon by the conference committee, oversight and management of SWCDs, Nutrient Management, and Resource Management Plans will remain at DCR. In addition, a series of public hearings held by a joint group of House and Senate Ag Committee members and DEQ, DCR, and VDACS, will be held this summer and fall across the state to discuss the appropriate oversight authority for Soil and Water Conservation Districts.

Tax Overpayment Refunds (SB 937) - After several similar bills will killed in a House subcommittee, the patron struck SB 937 with the agreement that a working group will be formed this summer to address the issue between local governments and the business community.

Port of Virginia Study (HJ 621) - JLARC, or the Joint Legislative Audit and Review Commission, will begin its work to review the current Port operations this summer, which may lead to further changes to the management of the Port. A report by JLARC is due by January 2014.

Port Tax Credits for Manufactured Products (HB 1824) - The Port Authority and the Tax Department will need to issue guidance for the new category of tax credits authorized by the legislation and have committed to bringing together a stakeholder group to advise them in this process.

Soil and Water Conservation Districts Funding Study (Budget Item) - The stakeholder group was established by the 2012 General Assembly and needs to continue to meet to complete its work on several outstanding issues. The Council is a member of the group.

VT Agriculture Animal Facilities (Budget Item) - The Council will continue to work with Va. Tech officials to ensure industry input into the planning of this project, as well as cost estimates for upgrading and replacing other animal facilities.

Drones for Enforcement Activities (SB 1331) - Over the next two years, proposals to regulate the use of drones will need to be developed since this is new technology not yet addressed in Virginia's Code.

King's Grants & Access to Waters (SB 880 & SB 737) - After legislation did not advance to require an inventory state waters that are (and are not) open to public access, the Senate Agriculture Committee sent a letter to DGIF to review this issue. We will be following the efforts of this group, as well as looking for opportunities to address the concerns created by another bill that would have provided a safe harbor from trespass for those traveling on waters in the state.

Freshwater Fish Sales (HB 2149) - After the Council and other parties met with the Patron, he agreed to strike his bill and plans to work with DGIF to provide outreach and education to Asian food markets. The Council will continue to work with the Delegate and DGIF on the issue to make sure there are no unintended consequences to the aquaculture industry should there be legislative clarification needed to some existing laws.

Questions, Responses, Opinions?

We welcome your comments in regard to the Virginia Agribusiness Council's representation of your interests during the 2013 General Assembly session. Let us know your thoughts and any questions you may have. Thank you.

Va. Agribusiness Council
P. O. Box 718
Richmond, VA 23218

P- 804/643-3555; F- 804/643-3556
E- va.agribusiness@att.net

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Virginia Agribusiness Council | 701 East Franklin Street | P. O. Box 718 | Richmond | VA | 23218