



VACo County Government Day at the General Assembly

Virginia Association of Counties • Virginia Association of Planning District Commissions

VACo | VAPDC County Government Day Bulletin

Schedule of activities | Omni Richmond Hotel

- 9 a.m.** VACo Board of Directors | James River Salon D
- 11 a.m.** Registration | James River Ballroom Foyer
- Noon** County Government Day begins (box lunch provided) | James River Salons ABC
- Keynote Speaker: The Honorable Governor Terry McAuliffe
 - VACo Team Reports
- 1 p.m.** Closing address and adjournment
- 1 p.m.** High Growth Coalition | James River Salon D
- Afternoon** Visit the Capitol to speak with legislators and observe committee meetings
- Evening** Please take your state legislators to dinner

Budget Amendments

Several budget amendments were introduced at VACo's request. Budget amendments are in the process of being heard in the House Appropriations and Senate Finance Committees in advance of the money committees reporting their respective budgets on Sunday, February 5.

The following budget amendments need your support:

VRS Teacher Plan

[Item 475 #1h \(Kilgore\)](#) | [Item 475 #2h \(Kory\)](#) | [Item 139 #3s \(Carrico\)](#) | [Item 475 #5s \(Chafin\)](#) | [Item 475 #6s \(Saslaw\)](#) – Returns to the 2012 schedule for phasing in full funding of the actuarial rates for the Virginia Retirement System teacher plan, which would bring the rates to full funding in FY 2019, rather than the accelerated plan agreed to in 2016, which would bring the rates to full funding in FY 2018.

Key Points

- This action would save the state approximately \$50 million in FY 2018, and would save localities at least \$76 million (for SOQ-recognized positions).
- This action would continue progress toward placing VRS on a sound financial footing, but makes a modest concession to the current budget situation.
- The action to expedite the phase-in was taken when state revenues appeared to be more robust. Since that time, the state rescinded its support for teacher salary increases, which were contingent on revenues meeting projections, but most school divisions had provided the raises at local expense in anticipation of state support. The loss of that funding, coupled with the increased costs for the expedited phase-in for the VRS rates, is particularly difficult for school divisions to absorb.
- The potential distribution of additional lottery proceeds to school divisions that has been reported in the media is welcome but the amounts reported are unlikely to cover the additional cost of the expedited VRS repayment.

Standards of Quality

[Item 130 #1h \(Sickles\)](#) | [Item 130 #1s \(Howell\)](#) – Requires the Secretaries of Education and Finance to work with key General Assembly committee chairs to develop a plan to phase in full funding of the recent Board of Education recommendations for the Standards of Quality, where those standards reflect prevailing practice (staffing standards for elementary school principals and assistant principals, and lifting the cap on support positions that was put in place during the recession).

Key Points

- These recommendations would conform the SOQs with prevailing practice, thus requiring the state to share in the costs that currently are absorbed by localities.
- The plan will provide for full funding levels by FY 2022 and will provide for gradual increases in funding levels in the intervening fiscal years.
- The Board of Education noted in its 2016 report that according to JLARC, Virginia ranks 39th of 50 for state per-pupil funding. However, when local contributions are included, the state rises to 23rd of 50 – an indication of how much school funding relies on local effort. This amendment is a modest step toward restoring some balance to the state-local school funding partnership.

Study the Adequacy of Resources to School Divisions

[Item 137 #1h \(O’Quinn\)](#) | [Item 137 #1s \(Chafin\)](#) – Requests \$1 million for an adequacy study to determine the appropriate level of resources needed for school divisions to meet state accountability requirements. The study is to examine particular challenges for schools, such as the effect of concentrations of poverty and declining enrollment, and identify the funding required to meet the Standards of Learning, Standards of Accreditation, and Standards of Quality, including potential weighted funding for students with special needs, such as economically disadvantaged students eligible for the federal free and reduced-price lunch program, students with limited English proficiency, and students eligible for special education services.

Key Points

- State accountability standards under the Standards of Learning and Standards of Accreditation continue to increase, but per-pupil state funding of the Standards of Quality, in contrast, still lags FY 2006 when adjusted for inflation, despite an infusion of funding in the 2016-2018 biennium budget.
- A sample of recent education initiatives include a required economics and personal finance course and higher pass rate requirements for full accreditation.
- At the same time that standards have increased, school divisions have also experienced growth in student populations with higher-level needs. Children in poverty now make up 40 percent of public school students and there has been significant growth in the number of students with disabilities. This study would identify ways to address these higher-level needs, including the investigation of a funding model that provides a base amount for each student with additional amounts for students in poverty, English learners, and students with disabilities.

Local Representation in Mental Health System Evaluation

[Item 284 #3h \(Watts\)](#) | [Item 284 #3s \(Barker\)](#) – Ensures local government representation on the stakeholders group that will be developing the contract for a plan to redesign the community mental health system.

Key Points

- Local governments are major funding partners in the behavioral health system and should be participants in efforts to redesign that system.
- Local contributions go beyond the required local match for Community Services Boards and include local matching funds for services provided through the Children’s Services Act, local contributions to safety-net nonprofits, and local funding for mental health treatment in jails.

Children’s Services Act

[Item 285 #1h \(Hester\)](#) | [Item 285 #1s \(Hanger\)](#) – Eliminates the cap on funds for wraparound services for children in special education through the Children’s Services Act.

Key Points

- Wraparound services are used to fund non-residential services in the home and community for a student with a disability when the needs associated with that disability extend beyond the school setting and threaten the child’s ability to remain in the home, community, or school setting. Such services may include in-home counseling, Applied Behavior Analysis, and mentoring.
- Prior to FY 2013, there was no designated category of funds for wraparound services; localities used their existing CSA pool allocations. The 2012 Appropriation Act designated \$2.2 million for this purpose; this earmark of funding has been interpreted to mean that ONLY this appropriation may be used for wraparound services, in contrast to other CSA expenditures for mandated populations, which are sum-sufficient.
- The cap makes the process of requesting and using the funds cumbersome, but localities that make use of the funds appear to increase their ability to serve children in their neighborhood schools without resorting to out-of-school placements.

Children’s Services Act Fund Match Rate

[Item 285 #2h \(Hester\)](#) | [Item 285 #2s \(Hanger\)](#) – Reduces the match rate for special education wraparound services to the community-based rate rather than the base rate. This action would return these services to their original classification and was supported by the State and Local Advisory Team and the State Executive Council in fall 2016.

Key Points

- Originally, these services were considered community-based and the match rate for localities was lower.
- The rate was changed to the base rate prior to FY 2014 due to state budget challenges.
- The required local match was the leading cause for localities not making use of these funds, according to a recent survey of FAPT and CPMT members and CSA coordinators.

Remove Local Match in CSA for Residential Services

[Item 285 #5h \(Boysko\)](#) | [Item 285 #3s \(Barker\)](#) – Eliminates the local Medicaid match in the Children’s Services Act, which is currently required for residential treatment and treatment foster care.

Key Points

- This is the only aspect of the Medicaid program in Virginia that requires a local match.
- The local Medicaid match was instituted in 2000. Local match rates have fluctuated over the years due to changing federal participation rates, but overall local expenditures have grown over time.
- Generally, under current practice, the local Medicaid match is triggered after the local Family Assessment and Planning Team (FAPT) reviews a case and determines that a high-level intervention such as residential treatment or treatment foster care is the most appropriate solution for the child.
- The new process by which children will be admitted to residential treatment via Medicaid will bifurcate the decision about the local match contribution. In many localities, the decision on medical necessity will be made by an independent team comprised of private-sector practitioners (triggering the Medicaid payment), but the decision on the local match will remain with the FAPT team.
- Eliminating the local Medicaid match for residential treatment would align the financial responsibility for the placement decisions with the decision-making authority for these placements.
- If the state’s budget situation does not allow for the elimination of the local match this year, interim steps could be taken to reduce the local match, or to require it only for certain cases, to provide localities some relief.

Department of Corrections PILT

[Item 394 #3s \(Ruff\)](#) – Provides \$1.4 million for the cost of service charges for Department of Corrections facilities and eliminates language that exempts the Department of Corrections from the requirement to pay service charges levied by a locality in lieu of taxes to cover the cost of services provided to state correctional facilities.

Key Points

- Currently, the state Department of Corrections (DOC) is exempt from Payment in Lieu of Taxes (PILT). PILT money was eliminated in the state budget in FY 2010.
- Counties that are annually impacted include Sussex, Greensville, Wise, Southampton, Buckingham, Richmond, Lunenburg, and Fluvanna.

Police Department Funding

[Item 400 #1h \(James\)](#) | [Item 400 #1s \(Wagner\)](#) – Provides \$5.7 million to increase “HB 599” funding (aid to localities with police departments) to match the growth in General Fund revenues, as required by statute.

- This funding provides assistance to nine counties with police departments (Albemarle, Arlington, Chesterfield, Fairfax, Henrico, James City, Prince George, Prince William, and Roanoke Counties).

Other Priority Amendments VACo Supports

Stormwater Assistance Fund

[Item 370 #1h \(Landes\)](#) | [Item 370 #2h \(Lingamfelter\)](#) – Provides \$20 million in General Funds for the State and Local Assistance Fund for stormwater projects. [Item C-48.10 #6h \(Yancey\)](#) and [Item C-48.10 #1s \(Hanger\)](#) provide for \$20 million in bond proceeds for the same purpose.

Water Quality Improvement Fund

[Item 364 #6h \(Landes\)](#) – Provides \$8.2 million for agricultural Best Management Practices (BMP), \$8.2 million in FY 2018. [Item 364 #2s \(Hanger\)](#) provides \$8.2 million for agricultural BMPs, \$8.2 million in FY 2018. [Item 364 #4h \(Lingamfelter\)](#) provides \$10 million for agricultural BMPs, \$10 million in FY 2018.

Please express support to members of the [House Appropriations](#) and [Senate Finance Committees](#).

House Appropriations Members: [Jones \(Chairman\)](#), [Landes \(Vice Chair\)](#), [Ingram](#), [Cox](#), [O'Bannon](#), [Lingamfelter](#), [Poindexter](#), [Massie](#), [Peace](#), [Greason](#), [Knight](#), [Anderson](#), [Garrett](#), [Stolle](#), [Rush](#), [Torian](#), [Hester](#), [Sickles](#), [James](#), [Carr](#), [McQuinn](#), [Aird](#)

Senate Finance Committee Members: [Norment \(Co-Chair\)](#), [Hanger \(Co-Chair\)](#), [Howell](#), [Saslaw](#), [Lucas](#), [Newman](#), [Ruff](#), [Wagner](#), [McDougle](#), [Vogel](#), [Carrico](#), [Obenshain](#), [Barker](#), [Dunnivant](#), [Stuart](#), [Dance](#)

General Government Steering Committee

VACo opposes bill to curb local authority for the provision of broadband services

VACo opposes a proposal by the Virginia Cable Telecommunications Association to impose significant hurdles and costly limitations for a locality to bring broadband to unserved areas. [HB 2108 \(Byron\)](#) will be voted on Thursday, February 2, in the [House Commerce and Labor Committee](#) in House Room D in the General Assembly building. A [substitute version](#) of the bill was presented in committee last week. The redraft contains many elements from the introduced version that will halt many of our members' efforts to deploy broadband to serve schools, businesses, and residential areas. The most problematic of these is the removal of FOIA exemptions that is in direct conflict with existing law for establishing private-public partnerships. Such exemptions were adopted by the legislature to give localities the ability to partner with private sector providers in service provision. Without them trade secrets and intellectual property will be open to the public and competitors. This will effectively limit the willingness of private internet service providers to explore and potentially partner successfully with localities to provide broadband. Upon conclusion of today's program – please make your way to House Room D to show your opposition to HB 2108.

VACo opposes wireless bills that gut local land use authority and force use of public property without adequate compensation

[HB 2196 \(Kilgore\)](#) and [SB 1282 \(McDougle\)](#) would severely limit local zoning authority and require that localities allow wireless facilities in their rights of way and on all locally owned property. The bill limits fees localities may charge in the permitting process, as well as rents localities may charge for leasing public property. **VACo is actively opposing** this legislation both as an overreaching limit to local land use authority and as an unprecedented grab of locally owned public property. The bills grant special privileges to a single industry at the expense of the local taxpayers. Forced use of public property and right of way without adequate compensation forces taxpayers to subsidize a single industry.

Key Points

- Requires that localities offer unfettered use of all local right of way and local buildings and grounds
 - No other non-public business or utility has this kind of access to local property.
 - Creates a path for franchisees and other businesses to demand access at the same rates to local property as well.
- Applies to all wireless infrastructure including 150' towers
 - Severely limits citizen input on siting and restricts permitting processes.
 - Rights of way that have buried utilities will be inundated with these unsightly towers.
- Fees/costs
 - Permitting fees will not cover the cost of review to the locality.
 - Rental fees for placement on local property are severely limited by the code.

Posting of check registers bill to be voted on Senate floor

VACo opposes [SB 795 \(Sturtevant\)](#), which requires every locality and school division to post on the public government website of the locality a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including credit card purchases with the same information. This bill, which was passed by the Senate Local Government Committee on a 9-4, has a fiscal impact on localities. Please tell your Senators to vote No on SB 795.

Election bills of interest

[HB 1733 \(Anderson\)](#) would provide for a process by which elected officials could be recalled from office. Currently, removal from office is a judicial proceeding that is initiated by voter petition. This bill would provide for recall elections, to be triggered by a petition signed by a number of registered voters equal to 20 percent of the votes cast for the office in the most recent election. **VACo has expressed concerns** about changes to an established process. This bill is before the [House Privileges and Elections Committee's Elections Subcommittee](#); it was not heard at the subcommittee's last meeting before crossover, and generally bills are not heard in the full Privileges and Elections Committee without a favorable report from subcommittee.

[SB 1253 \(Obenshain\)](#) is a modified version of a bill that has been introduced several times in the past. It proposes to require electronic pollbooks to contain photos of voters, which would be provided by the Department of Motor Vehicles, so that voters who have a driver's license or an identification card on file with DMV would not have to furnish photo identification at the polling

place on election day. In years past and as introduced this year, this bill proposed such a process as a local option, but the bill was amended in the Senate Privileges and Elections Committee to make it mandatory. **VACo opposes this mandate without accompanying state funding**, as there are costs to localities to implement this proposal, which will require many localities to upgrade software to accommodate large data files. The bill is now before the Senate Finance Committee.

As introduced, [HB 2343 \(Bell, R.B.\)](#) would have required local registrars to take on voter list-maintenance tasks that are currently performed by the state Department of Elections, which would shift mailing and staff time costs to localities. **VACo worked with the patron** and other interested parties to amend the bill to remove that requirement. The substitute version now requires the Department of Elections to provide registrars with lists of voters in their respective localities who appear to be registered in another state. Some registrars had expressed interest in receiving such information to assist in list maintenance. The bill is now on the House floor.

[HB 1409 \(Cole\)](#) permits the General Assembly to make technical adjustments to legislative district boundaries after redistricting in order to fix split precincts by allowing these boundaries to coincide with local voting precincts. This bill was favorably reported by the [House Privileges and Elections Subcommittee on Elections](#) on January 31. **VACo spoke in support**. The bill will likely be taken up in [full committee](#) on Friday, February 3.

Eminent Domain bills advance

VACo opposed [HB 2024 \(Freitas\)](#) as introduced, which would have severely curtailed the use of “quick take” procedures for public bodies acquiring land or easements for construction projects. Under these procedures the public body can deposit in circuit court the appraised value of the property it needs, take possession so the project can begin, and resolve the issue of fair market value. As reported by the [House Courts of Justice Committee](#) on January 27, the bill is a shadow of its former self. It now only requires that a notice to the property owner must be sent when filing the certificate of taking with the circuit court will now have to be sent 15 days before filing.

VACo opposes [HB 2124 \(Minchew\)](#), which alters current law permitting a public entity with the power of eminent domain to enter private property, after notice to the landowner, to do surveying and soil testing necessary to select the precise location of planned improvements. The bill would require a token payment of \$100 as the presumptive value of this temporary entry, but would also allow the landowner to request a court hearing seeking a higher amount. While the \$100 payments would be an unwelcome addition to project costs, the prospective of having to schedule multiple hearings at this early stage of a project is even more problematic due to the delays that such hearings will cause. This bill is assigned to the [House Commerce and Labor Committee’s Special Subcommittee on Energy](#) that meets at the call of the chairman.

Freedom of Information Act bills

After three years of comprehensive review during which each meeting and record exemption was examined, reviewed and discussed, the Freedom of Information Act (FOIA) study concluded resulting in [HB 1539 \(LeMunyon\)](#), the Records Omnibus bill, and [HB 1540 \(LeMunyon\)](#), the Meetings Omnibus bill. VACo was an active participant in the three-year study process working to minimize negative impacts on localities, and **VACo supports these bills**. Of note to local governments, HB 1539 redefines “regional public body,” revises the correspondence exemption, adds the requirement that notices of meetings be posted on government websites, adds the requirement that notices of continued meetings be given, regardless of whether the meeting is held by traditional or electronic communication means and adds the requirement that a proposed agenda must be included with agenda packets available to the public. HB 1540 allows closed meetings for discussion by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions and limits remote participation by a member of a public body due to a personal matter to two meetings per year.

Recording and written minutes in Closed Session

[HB 2401 \(Morris\)](#) mandates that minutes be taken in all closed meetings and that in addition, audio recordings of all closed meetings must be made. This bill will have a chilling effect on discussions on authorized matters in closed meeting and concerns about secure storage, archiving and access of these materials. **VACo opposed this bill**. In a House General Laws Subcommittee on January 31, HB 2401 was recommended to be tabled and sent to the FOIA Council for further study. This recommendation must be affirmed by the [House General Laws Committee](#).

Local government meeting agendas and public comment bill

[HB 2223 \(Kory\)](#) would mandate that all public bodies include a public comment period at any open meeting. This bill will greatly burden many local government processes because of the broad definition of public body. Public body includes any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions and any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body including any such committee or subcommittee that has private sector or citizen members. This bill will greatly slow down the governmental process because of the large number of entities this bill applies to. **VACo opposes HB 2223**.

Expanding the FOIA Council

VACo opposes [HB 1701 \(Yancey\)](#), which adds another press representative to the FOIA Council without examining the entire appointment process and the membership balance of the council. Currently there are three members of the 12-member council who are current or former

press members. Only one local government representative is provided for in the current law. In addition, under current law the recommendations for the citizen members are made from three media related groups. The FOIA Subcommittee recommended laying this bill on the table, meaning it failed. This recommendation will have to be affirmed by the [House General Laws Committee](#).

Expanding FOIA penalties

VACo opposed [SB 1103 \(Surovell\)](#), which provided an additional penalty to every member of a public body if a court finds that any member violated the certification related to a closed meeting. The senator amended the bill to require all closed meetings also be recorded and the bill failed in [Senate General Laws and Technology Committee](#).

VACo opposes [SB 1128 \(DeSteph\)](#), which creates a rebuttable presumption that a failure to respond to a request for records is willful and knowing. The Bill passed [Senate General Laws and Technology Committee](#) by a 9-6 vote. Since FOIA requests can be made in any form or format (i.e. email, letter, in-person phone call), a government official can be presumed guilty of a violation even though they may not have received the request.

Termination for FOIA violation

VACo opposes [HB 2402 \(Morris\)](#), which provides that if the court finds that any officer or employee of a public body receives a request for records that was sent by certified mail, return receipt requested, and without legal excuse or justification, deliberately, willfully, and knowingly fails to make a response to such request, such officer or employee may be terminated for cause by his appointing authority or agency head. This bill passed in the FOIA Subcommittee and will be in the [House General Laws Committee](#) on Thursday, February 2.

Bills that establish ‘trade secret’ status for ‘fracking’ chemicals

By a [59-37 vote](#), the House of Delegates passed an amended version of [HB 1678 \(Robinson\)](#). This bill provides “trade secret” status for “the amount of concentration of chemicals or ingredients” used in the process of hydraulic fracturing. On February 1, the [House Agriculture, Chesapeake and Natural Resources Committee](#) reported [HB 1679 \(Robinson\)](#). This measure establishes procedures for the Department of Mines, Minerals and Energy (DMME) to follow when approving as trade secrets chemicals used in the fracking process. HB 1679 also grants the DMME’s Director the authority to release information about such chemicals to certain persons in emergency situations.

Identical bills have been introduced in the Senate. The companion bill to HB 1678 is [SB 1292 \(Chafin\)](#) and the companion to HB 1679 is [SB 1291 \(Chafin\)](#). On January 30, both Senate bills were reported by the [Senate General Laws and Technology Committee](#) and re-referred to the [Senate Finance Committee](#) following testimony by Secretary of Natural Resources Molly Ward

that all legislation establishing trade secret status for chemicals used in the fracking process could have very substantial fiscal impacts upon the Commonwealth. According to DEQ Director David Paylor, failure to disclose full information about the chemicals and concentrations of chemicals used in the fracking process would make it much more costly for DEQ to conduct environmental impact assessments for the Tidewater region of the state, as that agency is required to do under recently finalized regulations issued by DMME.

VACo opposes these bills.

VACo's position statement regarding disclosure of chemicals used in the "fracking" process: *"VACo supports the disclosure of all chemicals used in the "fracking" process prior to their use."*

Key Points

- In cases of emergencies resulting from the process of hydraulic fracturing, first responders and medical care professionals may need timely information about chemicals used in the fracking process.
- In the process of evaluating requests for permits to allow for a fracking operation, local government officials would benefit by having fuller knowledge of these chemicals during the pre-application meetings required under DMME regulations.
- Knowledge of chemicals used in the fracking process would help protect groundwater supplies.

Study locals filing online disclosure

[SJ 289 \(Ebbin\)](#) seeks to create a study to look at including local public officials in online filing of disclosure forms and also determine whether there should be a procedure for reviewing disclosure forms filed by local government officers and employees and, if so, who should be empowered to perform such review. **VACo opposes this study** because the issue SJ 289 proposes to study has already been fully considered. The committees that considered changes to the State and Local Conflict of Interests Act disclosure requirements over the past three sessions initially decided to make everyone file electronically with the CI/Ethics Advisory Council for online posting, but reconsidered and decided not to require local governing bodies, school boards or local appointed officials to do so, for a number of reasons.

Key Points

- Many parts of the state still have inadequate broadband access. Some local officials in these areas would have difficulty uploading their disclosure forms.
- Paper filings are still public records; local officials' forms will still be readily available for inspection or copying by local media and citizens.

- Recruiting good people to serve in local office, either elected or appointed, is often difficult. Most are paid very little for their service. An online posting requirement will make it even more difficult to persuade them to serve.
- Any governing body or school board that wants its members' statements of financial interest to be more widely available can direct its clerk to post copies of them on the body's own website.
- Requiring all local officials to file through the Advisory Council would add thousands of additional filings to the administrative burden the Council faces as a new agency.

Licensing of photogrammetrists

[HB 2145 \(LeMunyon\)](#) and [SB 1572 \(Stanley\)](#) provide for the licensure of land surveyor photogrammetrists by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. The bill defines "land surveyor photogrammetrists" and sets the criteria for their licensure. Localities are concerned that this will require expensive licensure of local government employees who work on GIS related matters. VACo has asked the Commission on Local Government to complete a local fiscal impact statement on this bill. The House version of this bill was amended in Subcommittee adding a reenactment clause, meaning it must be passed in the 2018 General Assembly Session to become law. The Senate version has not yet been heard.

Procurement bills

[HB 1693 \(Collins\)](#) would raise the limit for individual term contracts for A/E services for jurisdictions with population under 78,000 from \$100,000 to \$150,000. The cap on the total amount of contracts over a year would remain at \$500,000. **VACo supports this bill.**

Limitations on use of construction management contracts

As introduced, **VACo opposes** [SB 1129 \(Ruff\)](#) and [HB 2366 \(Albo\)](#), which restrict the use of construction management procurements by public bodies unless (i) the total estimated contract value is \$40 million or more, (ii) a written determination is provided stating that competitive sealed bidding is not practicable or fiscally advantageous, (iii) the contract is entered into prior to the schematic phase of design, (iv) prior alternative procurement method experience is not required as a prerequisite for an award, and (v) price is the primary determining factor for award of the contract. These bills will be in committee this week.

Fireworks bills go down in smoke

[SB 980 \(Stanley\)](#), [SB 1433 \(Reeves\)](#) and [SB 1411 \(Suetterlein\)](#) would have provided for the sale of Consumer Fireworks in Virginia. All three bills failed to make it through the committee process. **VACo closely monitored these bills**, which were strongly opposed by many local fire officials.

Economic Development and Planning Steering Committee

VACo supports bills to preserve local authority over short term rentals

In 2016 the company Airbnb backed an unsuccessful proposal to limit local authority to regulate vacation rentals offered through its online hosting platform. The bills would have preempted local zoning authority and limited the role of localities to collect and audit sales and lodging taxes. In 2017 two legislators are looking to affirm and clarify the role local governments play in making sure such rentals are in compliance with local lodging and zoning ordinances.

[SB 1578 \(Norment\)](#) authorizes a locality to adopt an ordinance requiring the registration of persons offering property for short-term rental. The bill defines “short-term rental” as the provision of a room or space suitable for sleeping or lodging for less than 30 consecutive days. The bill authorizes localities to impose fees and penalties on persons who violate the registry ordinance or who offer short-term rentals that have multiple violations of state or federal laws or ordinances, including those related to alcoholic beverage control.

[SB 1579 \(Stanley\)](#) affirms the rights of localities to regulate the short-term rental of property, defined as the provision of space suitable for sleeping or lodging for fewer than 30 days. If a locality allows short-term rentals, the locality shall require that the person offering property for rental notify adjacent landowners in writing, obtain local permission to offer the property for rental, and carry a minimum of \$500,000 of commercial premises liability insurance. If a locality prohibits short-term rentals, any person or entity, including an online hosting platform, that advertises the availability of a short-term rental in the locality shall be subject to a \$10,000 fine per violation.

Both bills will be heard in a special meeting of [Senate Local Government Committee](#) on Thursday, February 2 at 10 a.m. in Senate Room A. **VACo supports the bills** and urges you to contact your Senators in support.

Key Points

- As with any other business situated in a residential setting, local governments are best suited to determine how to allow for and regulate short-term rentals.
- Both bills expressly grant localities the authority to protect the health and safety of the consumers and citizens who both lease and rent such property.

VACo opposes bills to exempt electrical substations from local approval

[HB 1766 \(Habeeb\)](#) and [SB 1110 \(Stanley\)](#) will exempt “any station, substation, transition station, and switchyard facilities” associated with certain high voltage transmission lines from

local planning and zoning review. Currently only the overhead transmission lines – when approved by the State Corporation Commission (SCC) – “shall be deemed to satisfy the requirements” of local comprehensive plans and zoning ordinances.

This additional exemption from local approval would only apply to 138 kilovolt (kV) transmission lines. Appalachian Power utilizes 138 kV and 765 kV lines, while Dominion Virginia Power uses 115 kV, 230 kV and 500 kV lines.

Substations associated with 138 kV transmission lines are typically built as a distribution point for retail electricity. As such there are located outside of long distance transmission corridors, so as to serve residential and commercial customers.

HB 1766 cleared the House of Delegates earlier this week on a vote of 67 to 30. SB 1110 will be voted on the Senate floor this week.

VACo opposes this bill. Please ask your Senator to vote No on SB 1110.

Key Points

- Counties support maintaining local authority to review and approve electrical substations for compliance with land use plans and ordinances.
- Localities need to retain local land use authority to work with utilities in the siting and appearance of such facilities to ensure an appropriate fit within residential and commercial districts.

VACo supports bill to allow counties to create economic revitalization zones
[HB 1970 \(Landes\)](#) grants to counties the same authority – currently granted to cities – to create economic revitalization zones. Such zones are established for providing incentives to private entities for making improvements to real estate with a goal of fostering economic development. Such incentives may include reduced permit and user fees, reductions in gross receipts taxes, and waiver of tax liens to facilitate the sale of property.

The measure has passed the House and is headed to the Senate for consideration. **VACo supports HB 1970.**

Key Points

- Counties should be granted the same authority as cities for the creation of economic revitalization zones.
- The creation of economic revitalization zones allows counties to provide regulatory and tax incentives to foster investment in vacant and underutilized property.

Education Steering Committee

Regional Charter School Bills

Neither of the two constitutional amendments that would have provided the Board of Education with broad authority to establish charter schools, subject to criteria to be set by the General Assembly, will proceed this year. [SJ 240 \(Obenshain\)](#) was stricken at the request of the patron and [HJ 629 \(Bell, R.B.\)](#) was tabled in a subcommittee of House Privileges and Elections Committee.

However, two problematic bills on this topic remain. As introduced, [HB 2342 \(Landes\)](#) and [SB 1283 \(Obenshain\)](#) would allow the Board of Education to establish charter school divisions in regions where one or more of the school divisions have an enrollment of more than 3,000 students and one or more schools have been denied accreditation for two of the past three years. A school board would be appointed for the regional charter school division, with eight members to be appointed by the state Board and three members to be appointed by the governing bodies of the underlying locality's school divisions. This regional school board would make decisions about the establishment of charter schools within the region. While the provisions allowing for some local participation in the regional school board are an improvement over the constitutional amendments, the composition of the regional school board is heavily weighted toward appointees of the state Board.

HB 2342 has been referred to the [House Education Committee's Education Innovation Subcommittee](#), where it was heard on January 31 and recommended for reporting by the full committee. SB 1283 has been referred to the [Senate Education and Health Committee](#) and is scheduled to be heard the morning of February 2.

Key Points

- **VACo has historically opposed measures** that would remove the authority from local school boards to make decisions about the establishment of charter schools.
- The proposed regional school boards, which would be making decisions about charter school applications, would be heavily weighted toward state appointees. Representatives of local school divisions, who are best suited to assess the needs in their localities, would have little say in decisions affecting the establishment of charter schools.
- The bills provide for the transfer of state per-pupil funding for students who enroll in regional charter schools. Although such a proposal would not divert local school funding dollars, it would have a particularly strong effect on school divisions with low Local Composite Indices, where the state provides a large share of school funding.

Education Savings Account Bills

[HB 1605 \(LaRock\)](#) and [SB 1243 \(Dunnivant\)](#) provide for Parental Choice Education Savings Accounts and are variations on legislation that has been considered in previous years. The Senate bill is more narrowly tailored and applies only to children with Individualized Education Programs who live in families with incomes less than or equal to 300 percent of the federal poverty level. The House bill would provide additional funding to children in these families, as well as to children who failed a Standards of Learning test or were suspended or expelled, but would allow all students who attended public schools for two semesters to apply to participate. Both bills allow for the transfer of state Standards of Quality funding to the families of qualified students for use in a wide variety of education-related expenses, such as tuition at private schools (which could be sectarian or nonsectarian) and fees for standardized tests.

HB 1605 has been referred to the [House Appropriations Committee's Subcommittee on Elementary and Secondary Education](#). It was heard on January 31 and recommended to be reported by the full committee. SB 1243 was reported by the [Senate Education and Health Committee](#) on an 8-7 vote and sent to the [Senate Finance Committee](#).

Key Points

- **VACo has historically opposed similar measures.** These bills would allow the diversion of public funds away from public schools and provide for a very broad list of uses for those funds, including their use at sectarian schools, which presents Constitutional questions.
- The effect would be particularly pronounced among localities with low Local Composite Indices.

Broad budget amendment would cut \$20.4 million in supplemental education funding

[Item 138 #2h \(Landes\)](#) would cut approximately \$20.4 million from supplemental education assistance programs in FY 2018. **VACo opposes such a dramatic reduction in funding.**

Proposed reductions are as follows:

Achievable Dream	\$ 500,000
Career and Technical Ed resource center	\$ 298,021
Career Council at Northern Neck	\$ 60,300
Charter School Supplement	\$ 100,000
Communities in School	\$ 1,244,400
Computer Science Training for teachers	\$ 550,000
High School Innovation	\$ 500,000
Jobs for VA graduates	\$ 573,776
Newport News Aviation Academy	\$ 100,000
Positive behavior interventions	\$ 1,098,000
Project Discovery	\$ 612,500
Small School Division Assistance	\$ 145,896
Southside VA regional tech consortium	\$ 108,905
Southwest VA Public Ed Consortium	\$ 124,011
STEM Program/ Research Study Air & Space	\$ 681,975
STEM Competition Team Grants	\$ 200,000
Summer Cyber Camps	\$ 480,000
Targeted School Year Grants	\$ 7,763,312
Teach for America	\$ 500,000
Teacher Improvement Initiative	\$ 50,000
Teacher Recruitment & Retention	\$ 1,931,000
Teacher Residency	\$ 1,500,000
Van Gogh Outreach	\$ 71,849
Virginia Reading Corps Pilot	\$ 300,000
VA Student Training (VA STAR)	\$ 300,000
Wolf Trap STEM	<u>\$ 600,000</u>
Total Supplemental K-12 Reductions	\$ 20,393,945

(Chart courtesy of Fiscal Analytics, Ltd.)

Key Points

- Please encourage money committee members not to take such a sweeping approach to these reductions.
- If the General Assembly wishes to re-examine its support for supplemental programs, it should consider each program on its merits and provide opportunities for public input on the programs' costs and benefits.
- Several members of House Appropriations have expressed an interest in moving away from sending education dollars to localities with directions to use the funding for specific

purposes, but instead to provide flexibility in the use of the funds. That approach would likely be beneficial to localities, but should be undertaken gradually with respect to existing programs that are proposed to be eliminated, such as those cut in this budget amendment.

Helpful legislation on Virginia Preschool Initiative tabled

[HB 1690 \(Dudenhefer\)](#) would remove the requirement that localities provide a local match for the state's share of Virginia Preschool Initiative (VPI) grants. Currently, in order to participate in VPI, localities must contribute a match according to their Local Composite Indices, with the match capped at 50 percent. In-kind contributions are allowed, but are limited to 25 percent. The bill would provide welcome flexibility, as early childhood education is a priority for local governments, but only 46 percent of localities are currently using all of their allocated slots; the local match is frequently cited as an obstacle to full participation in the program, along with difficulties obtaining classroom space.

The bill was heard in the [House Education Committee's Elementary and Secondary Education Subcommittee](#) on January 25 and unanimously recommended for reporting.

VACo spoke in favor, as did representatives of several school organizations. The bill was reported by the full [House Education Committee](#) and referred to the [House Appropriations Committee](#). It was heard in the House Education Committee's Elementary and Secondary Education Subcommittee on January 31 and was tabled. Committee members expressed concern that localities might opt to reduce their commitments to VPI in the absence of a required local match.

Environment and Agriculture Steering Committee

Amended Stormwater bill advances

As amended [HB 1774 \(Hodges\)](#) authorizes a cooperative study that will be facilitated by the Virginia Coastal Policy Center at William and Mary Law School. Under the bill a work group will be convened by the Commonwealth Center for Recurrent Flooding Resiliency with representatives from the Virginia Institute of Marine Science, Old Dominion University, VDOT, DEQ, the Chesapeake Bay Commission, local governments, representatives from environmental groups and a few other stakeholders. **VACo supports this bill.**

The introduced version of the HB 1774 contained several complex provisions involving nutrient trading and the authorization for local governments to form "rural development growth areas." The amended version of the bill removes all those complex provisions and simply provides for another year of study that will concentrate on "alternative methods" that can be used by localities

in the Tidewater area to “meet or exceed the level of water quality protection and water quantity control provided by the Virginia Stormwater Management Program (VSMP.)”

The bill requires the Commonwealth Center for Recurrent Flooding and Flooding Resiliency to issue a report with recommendations “for any legislative or regulatory measures needed to improve administration of stormwater management by rural localities.”

Very significantly, the substitute bill also delays from July 1, 2017 to July 1, 2018 the effective date of the comprehensive stormwater legislation that the General Assembly passed in 2016 (or 30 days after the implementing regulations are approved by the State Water Control Board, whichever is later).

On February 1, HB 1774 was reported by the [House Agriculture, Chesapeake and Natural Resources Committee](#).

Key Points

- HB 1774 authorizes a study that will focus on alternative, more flexible approaches rural localities can consider when developing their respective stormwater programs.
- HB 1774 provides at least one more year of preparation before the provisions of the “stormwater integration” legislation passed in 2016, [HB 1250 \(Wilt\)](#) and [SB 673 \(Hanger\)](#) go into effect.

Bill expands definition of ‘Agritourism’

[SB 1491 \(Stuart\)](#) expands the definition of “agritourism activity” by including the rental of a single-family residence for a period of at least one week. **VACo opposes this measure** because it further reduces local land use regulatory authority. Last week, the bill was reported by the [Senate Agriculture, Conservation and Natural Resources Committee](#) by a 11-3-1 vote.

Under 2014 legislation passed by the General Assembly, [HB 268 \(Orrock\)](#) and [SB 51 \(Stuart\)](#), localities were restricted from regulating any “agritourism activity” (as defined in [Section 3.2-6400](#) of the [Code of Virginia](#)) unless the operation has a “substantial impact upon the health, safety, or general welfare of the public.” Under the 2014 legislation, localities were also prohibited from requiring a special exception, special use permit or any “administrative permit” not required by state law.

A vote on SB 1491 is pending in the Senate.

Key Points

- Defining these rental properties as Agritourism will severely limit local land use authority and will prevent localities from regulating these short-term rentals.

- The subject of shorter-term rentals of single family residences should be addressed through legislation and regulations that apply to Airbnb.
- SB 1491 does not define a “single family residence,” which could be a large structure in which many customers can be temporarily housed at the same time.

Health and Human Resources Steering Committee

Budget amendments propose major changes to Children’s Services Act

Budget language introduced in both chambers proposes changes to funding for private educational day placements for children with disabilities. [Item 285 #6h \(O’Bannon\)](#) directs that funding for these day placements be transferred away from the Children’s Services Act (CSA) and to the Department of Education, effective June 30, 2018. A group of stakeholders is to work on the details of the transfer to ensure that legal requirements continue to be met. The budget amendment language provides that after the transfer of these funds, special education students will no longer be part of the mandated population for CSA. This is a major change to the program, as special education has been part of CSA since its inception in the 1990s. [Item 132 #2s \(Dunnavant\)](#) directs that a stakeholder group collaborate to determine a methodology for funding private educational placements under the Department of Education, with a report to be submitted in October 2017.

The Senate approach, since it is less prescriptive, is preferable. However, **VACo is advocating** to take a more deliberative approach to the question of whether this funding should be moved rather than determining how best to move it. The concern facing localities is that if the funding is moved out of CSA, it will likely lose the current sum-sufficiency requirement (which applies to the state as well as localities); in this situation, local school divisions would remain obligated to serve the children under the Individuals with Disabilities Education Act, but the state’s contribution would be limited.

VACo encourages the General Assembly to move with caution in this area. Please discuss this issue with members of the [House Appropriations Committee](#) and [Senate Finance Committee](#).

Helpful bill on Medicaid coverage for jail inmates under consideration

[HB 2183 \(Yost\)](#) directs the convening of a workgroup to develop processes for streamlining Medicaid enrollment for eligible jail inmates so that certain services may be covered by Medicaid during their incarceration or detention and they may obtain appropriate services immediately upon release. This work will build upon current efforts to obtain Medicaid coverage for inpatient services for eligible inmates, which has the potential to save localities significant

dollars in medical costs. HB 2183 was heard in the [House Health, Welfare and Institutions Committee](#) on January 31 and reported unanimously.

Bill to provide for state oversight of local parks and recreation programs amended

[SB 1239 \(Hanger\)](#) is the product of a work group that convened over the summer of 2016 and seeks to require certain minimum safety standards for child day programs that are exempt from licensure by the Virginia Department of Social Services (VDSS). Among the programs exempt from licensure are parks and recreation programs run by local governments. VACo participated in the summer work group and expressed concerns about proposals for VDSS oversight of these programs, which are operated under the auspices of local elected officials and in accordance with safety measures required by local risk managers. As reported by the [Senate Rehabilitation and Social Services Committee](#) on January 27, the bill differentiates between programs run by local governments and those operated by other entities (such as child-minding services offered at fitness centers, for example). Under the substitute version, a local parks and recreation program will be required to register with the state Commissioner of Social Services, report all incidents of serious injury or death occurring at the program, and post a notice of its license-exempt status on the premises, but will not have to document compliance with other requirements, such as safe sleep practices for infants. The bill has been referred to the [Senate Finance Committee](#).

Transportation Steering Committee

Bill would eliminate locally imposed vehicle license fees

VACo opposes [HB 2447 \(R. Marshall\)](#), a bill that eliminates local authority to assess local license fees for motor vehicles, trailers, and semitrailers. The measure has been referred to [House Transportation Committee Subcommittee #3](#). The bill has a delayed effective date of July 1, 2018.

Key Point

- According to the Fiscal Impact Statement developed by the Commission on Local Government, localities participating in the survey would experience a cumulative loss of nearly \$180 million in revenues.

Finance Steering Committee

Problematic machinery and tools bill advances

[HB 2104 \(Byron\)](#), among other provisions, would allow taxpayers to appeal assessments of machinery and tools directly to the state Tax Commissioner. The bill authorizes the Tax

Commissioner to issue advisory written opinions in specific cases related to valuations involving independent appraisals of manufacturers' machinery and tools that are presented by the taxpayer to the commissioner of the revenue. This would expand the Tax Commissioner's authority, which is currently limited to advisory written opinions in specific cases related to idle machinery and tools. The bill also requires the local Commissioner to take into account the condition of the machinery and tools, and any other factor that is appropriate to determining fair market value but not adequately considered by the valuation method otherwise used. The bill would require the Commissioner of the Revenue to provide to taxpayers, upon request, a description of his or her valuation methods. **VACo opposes HB 2104**, which was reported from the House Finance Committee on January 30 and is now on the [House floor](#).

Harmful BPOL bill defeated

[SB 836 \(Chase\)](#) would have required localities that impose BPOL taxes to impose the tax on Virginia taxable income rather than gross receipts. Currently, localities have the option to base the tax upon taxable income or gross receipts. A 2013 study by JLARC estimated that a change to levying BPOL on taxable income would result in a 95 percent reduction in BPOL revenues. **VACo opposed this legislation**, which was passed by indefinitely by the Senate Finance Committee and referred to the joint subcommittee to be convened pursuant to [SJ 278 \(Hanger\)](#).

Changes to assessment process proposed

[SB 1526 \(Obenshain\)](#) would reopen the agreement on streamlining the assessment and appeals process that was negotiated over two General Assembly sessions by a workgroup of local government and industry representatives. The bill adds new documents, such as appraisals or tax returns, to the list of those documents that may be submitted for valuation of property. The bill would also allow property owners to introduce statements of income and expense in any judicial proceeding to correct an erroneous assessment, as long as the documents were submitted to the locality originally. **VACo is opposed to the legislation**, which has been referred to the [Senate Finance Committee](#).

Study of local fiscal stress proposed

[SJ 278 \(Hanger\)](#) proposes a broad study of local financial stress, to include disparity in taxing authority between cities and counties, local responsibilities for service delivery, the current state tax structure, and incentives for regional cooperation. The study would be conducted by a joint subcommittee, which would include seven citizen members recommended by VACo and VML in addition to five Delegates and three Senators.

VACo supports this study. Please contact members of the [Senate Rules Committee](#), which will likely consider the study this week, and members of the [House Rules Committee](#), where it will be considered after crossover if it is favorably considered by the Senate.

Key Points

- Financial strains on localities have been a major topic of interest given the problems in Petersburg.
- This study takes a holistic approach to the issue, which cannot be isolated from the overall state and local tax structure.

Legislative Contacts

Senate Rules Committee: [McDougle \(Chairman\)](#), [Norment](#), [Hanger](#), [Newman](#), [Ruff](#), [Wagner](#), [Obenshain](#), [Vogel](#), [Stuart](#), [Stanley](#), [Carrico](#), [Reeves](#), [Saslaw](#), [Locke](#), [Howell](#)

House Rules Committee: [Howell \(Chairman\)](#), [Cox \(Vice Chair\)](#), [Landes](#), [Kilgore](#), [Ware](#), [Jones](#), [Orrock](#), [Knight](#), [Ingram](#), [Massie](#), [Habeeb](#), [Plum](#), [Toscano](#), [Ward](#), [Carr](#)

‘Lottery for Localities’ study introduced

[SJ 248 \(Ruff\)](#) proposes to direct the Joint Legislative Audit and Review Commission (JLARC) to examine the allocation of additional revenues to localities, to include effects on the lottery if prizes were reduced by 5 percent in order to redirect funding to localities. The study has been referred to the [Senate Rules Committee](#), where it will likely be considered this week. A companion measure, [HJ 627 \(Wright\)](#), was tabled in House Rules late last week, along with all other new study measures.

Constitutional amendments expand property tax exemptions

[HJ 562 \(Miyares\)](#) expands the current property tax exemption for surviving spouses of disabled veterans to make the exemption portable, so that the spouse would retain the exemption if he or she moved to a different residence. The resolution was recommended for reporting on January 30 by the [House Privileges and Elections Committee’s Constitutional Amendments Subcommittee](#). The fiscal impact is difficult to determine and would depend on whether the spouse was “downsizing” to a smaller residence or moving to a larger property.

[SJ 284 \(Stuart\)](#) expands the current property tax exemption for a surviving spouse of a member of the armed forces who is killed in action to apply to the spouse of a servicemember who dies in a combat zone. This measure was reported from [Senate Privileges and Elections Committee](#) on January 31.

[HB 1884 \(Hugo\)](#) implements the property tax exemption for the surviving spouses of first responders that was approved by voters in November 2016. The bill allows localities to exempt the primary residence of the surviving spouse of a law-enforcement officer, firefighter, search and rescue personnel, and emergency medical services personnel who is killed in the line of

duty. The surviving spouse would retain the exemption if he or she relocated, but not if he or she remarried. The bill has passed the House and awaits action in the Senate Finance Committee.

Bill targets local governmental entities such as VACo and VML

[SB 1157 \(Reeves\)](#) requires the governing body of any association or other nonstock corporation that is established by a political subdivision or combination of political subdivisions of the Commonwealth to file a separate registration statement on behalf of their officers and employees who will be engaged in lobbying. The bill also prohibits such political subdivisions from using public funds to support lobbying efforts and requires funds used for lobbying to be segregated from public funds and held in a separate bank account. **VACo opposes this bill**, which is in the [Senate Rules Committee](#).

Abbreviated Schedule of Committee Meetings

Thursday February 2	1/2 hr aft	Senate Agriculture, Conservation and Natural Resources; Senate Room B, General Assembly Building - 1/2 hour after adjournment (committee info)
	1/2 hr aft	House Commerce and Labor; House Room D, General Assembly Building - 1/2 hour after adjournment of House (committee info)
	Adj Sub 4	House General Laws; House Room C, General Assembly Building - 1/2 hour after adjournment of House (committee info)
	Adj Sub 2	House General Laws; House Room C, General Assembly Building Immediately upon adjournment of Subcommittee #2 (committee info)
	Adj GL	House General Laws - Subcommittee #4; House Room C, General Assembly Building - Immediately upon adjournment of full committee (subcommittee info)
	Adj Sub 4	House General Laws - Subcommittee #2; House Room C, General Assembly Building - Immediately upon adjournment of subcommittee #4 (subcommittee info)
	3 p.m.	Senate Finance Subcommittee on Education; 10th Floor Conference Room, General Assembly Building (subcommittee info)
	4 p.m.	Northern Virginia Transportation Commission Meeting; East Reading Room (Room 1035), Patrick Henry Building, 1111 E Broad Street, Richmond, Virginia 23219
	4 p.m.	House Appropriations - Compensation and Retirement Subcommittee; 9th Floor Appropriations Room, General Assembly Building (subcommittee info)

	4 p.m.	House Privileges and Elections - Campaigns Subcommittee; 5th Floor West Conference Room, General Assembly Building (subcommittee info)
	4 p.m.	House Transportation - Subcommittee #4; 4th Floor West Conference Room, General Assembly Building (subcommittee info)
Friday February 3	7:30 a.m.	House Finance - Subcommittee #3; 4th Floor West Conference Room, General Assembly Building (subcommittee info)
	8 a.m.	Senate Finance Subcommittee on General Government/Technology; 10th Floor Conference Room, General Assembly Building (subcommittee info)
	8 a.m.	House Counties, Cities and Towns; House Room D, General Assembly Building (committee info)
	8 a.m.	House Militia, Police and Public Safety; House Room C, General Assembly Building (committee info)
	8:30 a.m.	Senate Rehabilitation and Social Services; Senate Room B, General Assembly Building (committee info)
	9 a.m.	Tourism Caucus; 5th Floor West Conference Room, General Assembly Building)
	9:30 a.m.	House Privileges and Elections; 9th Floor Appropriations Room, General Assembly Building (committee info)
		Please note that sometimes meetings are subject to change on short notice. Please check this link for up-to-date information. http://lis.virginia.gov/cgi-bin/legp604.exe?171+oth+MTG