



VACo County Government Day at the General Assembly



Virginia Association of Counties

• Virginia Association of Planning District Commissions

VACo | VAPDC County Government Day Bulletin Thursday, January 31, 2019

Schedule of activities | Omni Richmond Hotel

9 a.m. VACo Board of Directors | Potomac Room

11 a.m. Registration | Top of the Grand

Noon County Government Day begins (Box lunch provided in the Potomac Prefunction Area) | James River Ballroom

- The Honorable Governor Ralph Northam
- VACo Team Legislative Reports

1 p.m. Closing address and adjournment

Afternoon Visit the Capitol to speak with legislators and observe committee meetings

Evening Please take your state legislators to dinner

Budget Amendments

VACo worked with members of the General Assembly to introduce a package of budget amendments to address major priorities of county governments. Budget proposals are being considered by the House Appropriations and Senate Finance Committees this week in advance of reporting their respective budgets this weekend. The “money committees” are scheduled to report their budgets on Sunday, February 3.

Please thank the patrons of these amendments and encourage your General Assembly members to support the proposals, particularly if your legislators serve on House Appropriations or Senate Finance.

K-12 support position cap

[Item 127 #1h \(Sickles\)](#) and [Item 127 #1s \(Howell\)](#) direct the Secretary of Education and the Secretary of Finance, in consultation with the chairs of the appropriate General Assembly committees, to develop a plan to eliminate the current cap on recognition of support positions in the Standards of Quality and instead recognize support positions in accordance with prevailing local practice, which had been the case before the recession. The plan is due prior to the 2020 General Assembly session and must include a schedule to eliminate the cap by FY 2024.

KEY POINTS

- VACo has a longstanding position in favor of eliminating this cap, which was enacted during the recession and artificially limits the number of support positions for which the state will share costs.
- Imposition of the cap has not eliminated the need for these positions, which include staff essential to the operation of a school system, such as bus drivers, social workers, and information technology staff.
- This amendment is a modest step toward restoring some balance to the state-local school funding partnership. The approach is similar to that taken by the General Assembly toward returning to full funding of the actuarial rates for VRS.

Adjust state and local shares for Standards of Quality Funding

[Item 136 #22h \(Krizek\)](#) and [Item 136 #4s \(Dance\)](#) provide a one-time adjustment to the Direct Aid to Public Education funding formula by increasing the state’s share of the Standards of Quality from 55 percent to 57 percent.

KEY POINTS

- This temporary adjustment would provide relief to all localities, who are struggling with the long-lasting effects of the reduction in state K-12 support during the recession.
- Despite work to improve state K-12 funding over the last several years, when adjusted for inflation, state per-pupil direct aid for public education remains about \$400 below FY 2009 levels, which is a strain on local finances. This adjustment would aid all school divisions.

Bolster VRS teacher plan funded status

[Item 266 #1h \(James\)](#) and [Item 266 #1s \(Lucas\)](#) direct that interest earned on \$300 million of the Revenue Reserve Fund be transferred to VRS and deposited to the teacher retirement plan, where it could be invested in order to improve the funded status of the plan. The Revenue Reserve Fund was created during the 2018 General Assembly as an additional way to improve the state's cash reserves to guard against future economic shocks; the Governor's budget proposes to deposit \$235 million GF in the Fund in FY 2019, as required by the 2018 Appropriations Act, and provides an additional \$504 million GF in FY 2019 and \$50 million GF in FY 2020.

KEY POINTS

- This cash infusion would continue the state's commitment to placing VRS on a sound financial footing.
- With investment income currently accounting for about two-thirds of the money used to pay pension obligations, additional funds available to be invested could help offset any lower assumed rate of return, potentially improve the funded status of the teacher plan, and ultimately help to reduce employer contribution rates.

Sheriffs' deputies with law enforcement responsibility

[Item 66 #1h](#) and companion [Item 73 #1h \(Ware\)](#), [Item 66 #3h](#) and companion [Item 73 #2h \(LaRock\)](#), and [Item 66 #7s](#) and companion [Item 73 #1s \(Black\)](#) all provide funding for 241 law enforcement deputies in FY 2020 to meet the statutory requirement for staffing in sheriffs' offices with law enforcement responsibility.

KEY POINTS

- The additional positions would return the state to compliance with the statutory mandate contained in § 15.2-1609.1, which requires the Compensation Board to provide at least one law enforcement deputy per 1,500 people served by each sheriff's office with primary law enforcement responsibilities.

- The 1:1,500 ratio has not been funded since FY 2008, leaving localities to step in to fund positions that are needed to ensure public safety.

Aid to localities with police departments

[Item 397 #2h \(Ingram\)](#) / [Item 397 #1s \(Deeds\)](#) provide additional funding to the “HB 599” program, which provides aid to localities with police departments.

KEY POINTS

- Virginia Code provides that HB 599 funding is to increase at the same rate as growth in state General Fund revenue collections. These amendments provide \$7.9 million per year to “catch up” HB 599 funding with the state General Fund growth assumed in the introduced budget
- Localities with police departments must comply with certain state standards and requirements in order to receive HB 599 funding, including training and reporting requirements. Language in the Appropriations Act requires that HB 599 funds may not be used to supplant local funding for public safety.

Effects of Medicaid expansion on Community Services Boards (CSBs)

[Item 310 #4h \(Sickles\)](#) and [Item 310 33s \(Barker\)](#) would allow the assistance to CSBs affected by General Fund reductions associated with Medicaid expansion that is included in the Governor’s budget to be provided prior to the end of the fiscal year, so that the provision of critical services is not disrupted. The amendment also requires the Department of Behavioral Health and Developmental Services to report on how the expected GF savings compared to actual Medicaid payments for FY 2019, so that the expected GF savings in FY 2020 may be adjusted in amendments to the biennium budget during the 2020 General Assembly if necessary.

KEY POINTS

- The biennium budget passed in 2018 assumes that, as a result of Medicaid expansion, CSBs will be able to bill Medicaid for services for previously-uninsured individuals whose care had been funded by state General Funds and reduces state General Funds to CSBs accordingly in FY 2019 and in FY 2020.
- CSBs have expressed concern about whether Medicaid billings will fully replace the reduced state General Fund support, particularly in the current fiscal year.
- The Governor’s budget would allow the Department of Behavioral Health and Developmental Services to provide funding from special fund balances at the end of the fiscal year to Community Services Boards in circumstances where a Community Services

Board's additional FY 2019 Medicaid reimbursements do not reach at least 90 percent of the general fund reductions assumed in the 2018 Appropriations Act for FY 2019.

- The budget amendments modify the Governor's language to allow this assistance to be provided before the end of the fiscal year and require reporting so that the FY 2020 GF reductions may be re-examined if necessary.

Protecting the Communications Sales and Use Tax Trust Fund

The budget passed in 2018 directed that \$2 million per year in savings from the telecommunications relay contract (which is paid "off the top" of the Communications Sales and Use Tax Trust Fund) be diverted from the Trust Fund into the state General Fund. VACo, VML, and Virginia First Cities requested that the Governor eliminate this transfer and are grateful to the Governor for eliminating the transfer in FY 2020 in the introduced budget. [Item 3-1.01 #2h \(Ingram\)](#) and [Item 3-1.01 #1s \(Wagner\)](#) and [Item 3-1.01 #3s \(Ebbin\)](#) would eliminate the transfer in FY 2019.

KEY POINTS

- The Communications Sales and Use Tax Trust Fund represents revenues held in trust for localities.
- Any savings from the telecommunications relay contract should be left in the Trust Fund rather than being swept for general state purposes.
- These amendments preserve the integrity of the Trust Fund, which is particularly important given the decline in revenues generated by the Communications Sales and Use Tax.

Study of election administration costs

[Item 1 #2h \(Cole\)](#) and [Item 1 #3s \(Ebbin\)](#) would set up a stakeholder workgroup to examine how elections are funded in Virginia, to include current state support and expected future needs of the system.

KEY POINTS

- State support for elections administration in many localities covers only a portion of compensation for the general registrar and electoral board, leaving localities to fund other costs of a vital, increasingly complex function of government.
- The workgroup would provide a venue for sharing information on potential cost-sharing efficiencies as well as an opportunity for discussions of expected challenges in the future and recommendations for how those challenges can be met.

Payments for service charges in lieu of taxes for state correctional facilities

[Item 391 #2s \(Peake\)](#) provides \$1.3 million per year to pay for service charges levied in lieu of property taxes on state correctional facilities and eliminates budget language that overrides the existing statutory mandate for the Department of Corrections to pay these service charges.

KEY POINTS

- Virginia Code provides that a locality housing a state Department of Corrections facility and meeting certain thresholds regarding the value of the state property within the locality is entitled to collect service charges from the state to offset local funding expended in support of the state facility.
- Since FY 2010, the state budget has contained language overriding that statutory provision, resulting in more than a million dollars a year in lost revenue to affected counties.

Other priority amendments VACo supports

- [Item 136 #18s \(McClellan\)](#) provides \$724 million over the course of FY 2019 and FY 2020 to eliminate the artificial cap on the number of state funded support positions, as recommended by the Virginia Board of Education. State support is currently capped at one support position for every 4.27 instructional positions. [Item 136 #18h \(Bell, J.\)](#) / [Item 136 #1s \(Barker\)](#) provide \$25 million to fully restore the Cost of Competing salary adjustment (COCA) for support positions in school divisions in Planning District 8.
- [Item 136 #2s \(Dance\)](#) provides \$28.5 million in FY 2020 to increase the at-risk add-on percentage range from 1-16 percent to 1-20 percent. This amendment increases state support to schools with the highest concentrations of students eligible for free lunch to provide dropout prevention, after school programs, and specialized instruction.
- [Item 395 #1h \(Peace\)](#) provides \$3 million in FY 2020 to increase funding of the School Resource Officer Incentive Grant Fund, which will allow more funding of SRO positions.
- [Item 264 #1h \(Thomas\)](#) provides \$2 million in FY 2020 to compensate localities where more than one percent of the real property tax base is subject to the mandatory real property tax exemption for disabled veterans and their surviving spouses.
- [Item 312 #6h \(Hodges\)](#) / [Item 312 #4s \(Barker\)](#) provide \$15 million in FY 2020 to fully fund outpatient mental health and substance abuse services required to be provided at Community Services Boards (CSBs) under the STEP-VA plan for establishing a standard array of services at all CSBs.

- [Item 141 #2h \(Byron\)](#), [Item 141 #3s \(Ruff\)](#) provide \$5.5 million in FY 2020 for the New Economy Workforce Credential Grant program, which assists students in attaining workforce credentials through the Virginia Community College System. VACo supported the initial establishment of this program.
- [Item 106 #5h \(McQuinn\)](#) / [Item 106 #14h \(Bell, R.P.\)](#) / [Item 106 #2s \(Stanley\)](#) provide \$2.5 million per year to establish the Virginia Grocery Investment Fund to expand access to nutritious foods in underserved communities.
- [Item 363 #6h \(Ingram\)](#) and [Item 363 #14s \(Howell\)](#) provide \$2.8 million per year for operations and maintenance in state parks; [Item 363 #9h \(Landes\)](#) and [Item 363 #6s \(Hanger\)](#) provide \$3.5 million per year for staffing in state parks.
- [Item 368 #2h \(Yancey\)](#) provides \$20 million for the Stormwater Local Assistance Fund in FY 2020.

Economic Development and Planning Steering Committee

VACo supports additional funding to counties to expand broadband service

The Governor’s introduced budget includes an increase in funding for the Virginia Telecommunications Initiative (VATI) from \$4 million to \$50 million in FY 2020. VATI funds are only available to local governments, in partnership with a private sector provider, to supplement the costs of infrastructure to expand broadband access to unserved areas.

KEY POINTS

- Virginia should assist communities in their efforts to deploy universal affordable access to the internet for all areas, particularly in underserved rural areas.
- An increase in available funding to counties to build broadband infrastructure will provide a much-needed boost in expanding internet service.

In addition to supporting more funding for broadband infrastructure, VACo has been tracking the following bills that seek changes in Virginia law to provide additional tools and programs to meeting internet service demands:

[HB 2141 \(Thomas\)](#) expands the authority of localities to create service districts to “...*contract with a broadband service provider who will construct, maintain, and own communications facilities and equipment required to facilitate delivery of last-mile broadband services to unserved areas of the service district.*” The legislation passed in committee by unanimous vote

and will be likely up for final vote on the House Floor by Friday, February 1. **VACo supports the legislation** as it provides a viable option for counties to finance the necessary infrastructure to deploy universal affordable access to the internet.

[HB 2691 \(O'Quinn\)](#) establishes a pilot program that requires both Dominion Power and Appalachian Power to submit proposals to the State Corporation Commission to “...*provide or make available broadband capacity to nongovernmental Internet service providers in areas of the Commonwealth unserved by broadband.*” Under the program, the utilities will expand available internet capacity in conjunction with their plans to modernize the electric grid by installing fiber-optic telecommunications capacity between generation, transmission and distribution points. For example, existing plans to build fiber-optic connections to electric substations serving communities will now potentially include additional capacity to also provide broadband service to those communities without access to the internet. The bill passed unanimously in subcommittee and will be before the full [House Commerce and Labor Committee](#) on January 31 after the House adjourns from regular session.

Proffer legislation seeks to address impacts of residential growth

Changes made by the 2016 General Assembly to Virginia’s law on cash and in-kind proffers has severely limited the ability of localities to address the fiscal impacts of new development when considering a rezoning application. Legislation proposed by the Homebuilders Association of Virginia (HBAV) attempt fixes to this problem.

[SB 1373 \(Favola\)](#) and [HB 2342 \(Thomas\)](#) include the following changes to law:

- Provides a separate development review process (distinct from existing law) where an applicant may voluntarily submit any onsite or offsite proffer they deem “reasonable and appropriate, as evidenced by the signed proffers”. The current law assumes that any proffer is “unreasonable” unless it addresses an impact that is specifically attributable to a proposed new residential development and is a listed public facility or improvement.
- To initiate legal action against a locality for requiring an unreasonable proffer, an applicant must have “objected in writing to the governing body regarding a proposed condition prior to the governing body's grant or denial of the rezoning application.”
- Verbal communications with applicants cannot be “used as a basis that an unreasonable proffer or proffer condition amendment was required by the locality.”
- Does not “prohibit or require presentation, analysis, or discussion of the potential impacts of new residential development or new residential use on the locality's public facilities.”

Both bills passed their respective chambers and await further action after crossover. While these proposed changes to the existing proffer law are an improvement, **VACo supports greater flexibility** in the application process for determining and addressing impacts of development.

[SB 1143 \(Peake\)](#) and [HB 1801 \(Ware\)](#), which failed in committee, address a key issue related to public facilities capacity not addressed by the Favola and Thomas bills by removing the “specifically attributable” language of the 2016 bill thus allowing applicants to address the impact of applications on the existing capacity of public facilities. This fixes the current standard which only allows addressing the impacts “in excess existing public facility capacity at the time of the rezoning or proffer amendment” that is “specifically attributable to the new residential development or use.”

VACo preserves authority of Counties to address impacts of large solar projects

As introduced, [SB 1398 \(Stanley\)](#) and [HB 2621 \(Ingram\)](#) would take away the authority of local elected officials to negotiate the terms and conditions for restoration of property upon the removal (aka decommissioning) of “certified solar energy equipment, facilities, or devices” installed for utility-scale solar projects. The legislation would only allow for addressing the terms of restoration at the site plan review process, long after a local governing body decides if the property in question is in conformance with the comprehensive land use plan and zoning ordinance. The measure also places strict limits on the removal requirements, such as limiting the depth of soil restoration to three feet and mandating that the salvage value of any equipment be credited towards financial assurance for any defaults in the obligation to remove the solar equipment.

At VACo’s request, the bill was modified in committee to state that approval of a decommissioning project could be at the site plan process or as part of the legislative approval process. Also, at VACo’s request, the limit of depth of soil restoration and the mandate to accept salvage were removed from the bill.

Education Steering Committee

K-12 education funding

To assure each child in Virginia receives the quality education necessary for his or her success, **VACo supports fully funding the Standards of Quality** as recommended by the Board of Education, where these recommendations coincide with prevailing local practice.

As introduced, the [Governor’s Amended 2019-2020 Budget \(SB 1100\)](#) includes:

- \$39.9 million NGF in FY 2019 and \$30.4 million NGF in FY 2020 to reflect increased estimated Lottery proceeds allocated to funding for the At-Risk Add-On and Supplemental Lottery per Pupil Allocation

- \$87.6 million GF in FY 2020 for a two percent salary increase for funded Standards of Quality instructional and support positions, effective July 1, 2019. This is in addition to the existing three percent increase effective the same date.
- Increases GF support for school employee retirement by \$80 million to free up Literary Fund dollars for school construction loans.
- \$36.0 million GF in FY 2020 for modified school counselor staffing ratios (1:500 to 1:375 in elementary school, 1:400 to 1:325 in middle school, and 1:350 to 1:300 in high school) with an intent to provide additional funding in subsequent fiscal years to achieve a ratio of 1:250 for all public schools.
- \$9.6 million GF in FY 2020 for the Virginia Preschool Initiative Plus program to replace the loss of federal funding through the expiration of funds in the Preschool Development Grant.
- \$427,630 GF in FY 2020 at the Department of Criminal Justice Services (DCJS) to expand training for school resource and security officers.
- \$515,630 GF in FY 2020 for DCJS to continue to administer an annual School Climate Survey and analyze school safety data.
- \$720,630 GF in FY 2020 for DCJS to develop a case management tool for school threat assessments and to expand technical assistance and training available for threat assessment team members.
- \$1.3 million GF in FY 2020 to provide funding and positions at DCJS to expand agency capacity to provide training and technical assistance related to school safety.
- \$280,000 GF in FY 2020 to enable DCJS to continue to provide active shooter training to schools and communities.
- Language increasing the division cap for School Security Equipment grants from \$100,000 to \$250,000.

KEY POINTS

- When adjusted for inflation, state direct aid per-pupil spending on public education in FY2019 is less than funding levels in FY2009, despite increased educational mandates, increased numbers of students, increased numbers of students with special needs, and state policy changes.
- Localities are disproportionately bearing the cost of their locality's needs and must have adequate support from the state. In FY 2016, local school divisions spent approximately \$4.9 billion above required local effort.

Oppose charter school bill

[HB 2416 \(Davis\)](#) allows certain charter schools to appeal the denial of an application to establish a charter school by a local school board to the Virginia Board of Education. HB 2416 was referred to the House Education Subcommittee #2, where it was heard on January 25. **VACo spoke in opposition** to this measure, as did representatives from numerous school organizations, including the Virginia School Board Association (VSBA) and the Virginia Association of School Superintendents (VASS). The bill was reported by the House Education Committee on a 11-10 vote.

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 bill raises possible [constitutional](#) concerns regarding the government of public schools.

Oppose home instruction JROTC bill

[SB 1275 \(Black\)](#) requires any local school board that offers a Junior Reserve Officers Training Corps (JROTC) program to make the program available to any student residing in the local school division receiving home instruction. The bill is problematic in that it prohibits the local school board from requiring any such student to enroll part or full-time in the local school division or to meet any other eligibility requirements. The bill advanced on a narrow 3-2 vote in the Senate Education and Health Committee's Public Education Subcommittee and was reported from the full Senate Education and Health Committee on a 9-5 vote, and narrowly escaped the Senate on a vote of 22-18. The bill has been referred to the [House Education Committee](#). **VACo spoke in opposition to this measure**, as did representatives from numerous school organizations, including the Virginia School Board Association (VSBA) and the Virginia Association of School Superintendents (VASS).

KEY POINTS

- VACo has historically opposed measures that would divert public funding to students not receiving public instruction.
- JROTC programs receive federal funds for [partial](#) reimbursement of program expenses. All other expenses incurred in the running of a local school division's program are paid for by the local school division.

School safety bills

Prior to the beginning of session, the House Select Committee on School Safety and Governor Northam's Workgroup on Student Safety reviewed the state of student safety in Virginia's schools and made their respective recommendations [here](#) and [here](#). Multiple pieces of legislation have been filed in line with, as well as independent of these recommendations and continue to advance in both chambers of the General Assembly.

The following is a list of some of the most impactful bills:

- [HB 1729 \(Landes\)](#) requires each school counselor employed by a school board in a public elementary or secondary school to spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. This increases the amount of time school counselors currently are required to spend in direct counseling and may require local school divisions to employ additional staff to cover duties previously assumed by school counselors. **VACo has expressed concerns** about local fiscal impact. The bill advanced through the House Education Committee unanimously and was also unanimously passed by the House before being referred to the [Senate Education and Health Committee](#).
- [HB 2053 \(McQuinn\)](#) / [SB 1406 \(Dance\)](#) require school boards to employ school counselors in accordance with a series of decreasing ratios with the ultimate goal that by the 2021-2022 school year, the ratio will be one full-time school counselor for every 250 students at each level of elementary, middle, and high school. Both bills have advanced through the House Education Committee and the Senate Education and Health Committee and have been referred to [House Appropriations](#) and [Senate Finance](#), respectively. Though reducing the ratio of school counselors in the Standards of Quality will increase state direct aid to education and the Governor has accounted for this in his budget proposals, local matching funds will still be required if these bills are enacted.
- [HB 1752 \(Krizek\)](#) makes November election day a public student holiday. The bill passed the House on a vote of 97-1 and has been referred to the [Senate Education and Health Committee](#).
- [HB 1725 \(Knight\)](#) requires each school board, in consultation with the local building official and the state or local fire marshal, to develop a procurement plan to ensure that all security enhancements to public school buildings are in compliance with the Uniform Statewide Building Code and Statewide Fire Prevention Code. The bill passed the House unanimously and has been referred to the [Senate Education and Health Committee](#).
- [HB 1732 \(O'Quinn\)](#) / [SB 1215 \(Newman\)](#) require each public elementary and secondary school principal to develop and deliver to each student and employee in the school at least once annually training on safety procedures in the event of an emergency situation on school property. The Virginia Board of Education is required to develop guidelines for the development and delivery of this training. HB 1732 passed the House unanimously and has been referred to the [Senate Education and Health Committee](#). SB 1215 passed the Senate unanimously and has been referred to [House Education Committee](#).

- [HB 1733 \(Gilbert\)](#) requires the school board in each school division in which the local law-enforcement agency employs school resource officers to enter into a memorandum of understanding (MOU) with such local law-enforcement agency that sets forth the powers and duties of the school resource officers. The bill requires each such school board and local law-enforcement agency to review and amend or affirm the memorandum at least once every five years or at any time upon request of either party. The bill passed the House unanimously and has been referred to the [Senate Education and Health Committee](#).
- [HB 1738 \(Rush\)](#) requires the architect or engineer who provides the required statement to accompany a local school superintendent's approval on all plans for new or remodeled public-school building construction to be trained and experienced in crime prevention through environmental design. The bill passed the House unanimously and has been referred to the [Senate Education and Health Committee](#).
- [SB 1207 \(Stuart\)](#) / [HB 2142 \(Thomas\)](#) provide additional local flexibility to localities struggling to hire for lack of funds or available qualified labor School Resource Officers (SROs) or School Security Officers (SSOs), by creating a new class of school security personnel not subject to some of the training standards mandated of SROs and SSOs and giving localities the option of hiring these individuals. **VACo spoke in support** of these bills. SB 1207 passed the Senate on a 27-13 vote and HB 2142 was reported from House Militia, Police and Public Safety Committee on a 12-7 vote.
- [SB 1213 \(Newman\)](#) / [HB 1734 \(Marshall\)](#) require the Virginia Center for School and Campus Safety to develop a case management tool for use by public elementary and secondary school threat assessment teams and require such threat assessment teams to use such tool to collect and report to the Center quantitative data on its activities. The Governor's introduced budget includes approximately \$700,000 to develop this tool and support a full-time staff position responsible for providing training. SB 1213 passed the Senate unanimously 38-0 and has been referred the House General Laws Committee. HB 1734 was recommended for reporting by the House Appropriations Committee's Public Safety Subcommittee, 6-0, but has not yet been assigned a hearing date in the full House Appropriations Committee.
- [SB 1130 \(Locke\)](#) originally required each school resource officer (SRO) to be trained and certified by the Virginia Center for School and Campus Safety, which is not current practice and expanded the topics on which school security officers are required to be trained. **VACo expressed concerns** that additional training requirements would impose an unfunded mandate on localities. At a January 24, meeting of Senate Education and Health Committee's Public Education Subcommittee, the bill was recommended to report with a substitute. The substitute incorporated several other bills mandating training standards of SROs and of local school division personnel – [SB 1299 \(Barker\)](#), [SB 1530 \(Deeds\)](#), and [SB 1551 \(Surovell\)](#). **VACo worked with the patron and members of the subcommittee** to amend language allowing for more permissive training standards to be determined by the Criminal Justice Services Board, and for additional local training

options. The bill was recommended to report by the Subcommittee on a vote of 3-2 with the understanding that clarifying language will be added to the bill.

School modernization bills

Many localities face significant challenges in raising enough funds to undertake capital school construction or renovation projects. According to a 2013 [report](#), more than 40 percent of Virginia's public school buildings and facilities were built at least 50 years ago and another 20 percent were constructed at least 40 years ago. The condition of the facilities in which children are educated has a direct impact on their ability to learn. Several pieces of legislation seek to address this issue and come from the Senate Local Government Committee's School Facility Modernization Subcommittee's review of this issue prior to the session.

- [SB 1330 \(Stanley\)](#), the flagship recommendation from the Subcommittee on School Facility Modernization, provides for a statewide referendum on the question of whether the General Assembly shall issue state general obligation bonds in the amount of \$3 billion for K-12 school building construction, repair, or other capital projects related to the modernization of school facilities. The results would be advisory only and are intended only to demonstrate the preference of the citizens of the Commonwealth on developing such a commission. The referendum would be held at the November 2019 general election. The Senate Privileges and Elections Committee rereferred the bill to [Senate Finance](#) on a 14-0 vote.
- [SB 1331 \(Stanley\)](#) / [HB 2192 \(Rush\)](#) establish standards for the design, construction, maintenance, and operation of public school buildings and facilities and allows for a local school division to enter into a lease agreement with a private entity to meet such standards. The bill would allow for net energy metering in public school buildings and facilities. **VACo collaborated with other stakeholder groups** to request that the bills be amended to include permissive language. HB 2192 was recommended for reporting with a substitute by the House General Laws Committee's Subcommittee #4. SB 1331 was referred to the [Senate Education and Health Committee](#).
- [SB 1702 \(Stanley\)](#) creates the Public School Assistance Fund and Program for the purpose of providing grants to school boards to be used solely for the purpose of repairing or replacing the roofs of public elementary and secondary school buildings in the local school division. One of the conclusions reached by the Subcommittee was that many of the problems encountered in older school buildings result from the difficulties of maintaining healthy roofing. The bill permits any school board in the Commonwealth to apply for Program grants but requires the Department of Education to give priority in the award of grants to school boards that demonstrate the greatest need based on the condition of existing school building roofs and the ability to pay for the repair or replacement of such roofs. The bill was reported from the Senate Education and Health Committee and rereferred to Senate Finance on a 15-0 vote.

- One bill on this issue that did not originate from the Subcommittee on School Facility Modernization was [HB 1634 \(Edmunds\)](#). This bill originally authorized all counties and cities to impose an additional local sales and use tax at a rate as determined by the governing body, if initiated by a resolution of the local governing body and approved by the voters at a referendum. Revenue from the tax shall be used solely for capital projects for the construction or improvement of schools. While **VACo was supportive** of the original bill, at the January 23 meeting of the House Finance Committee’s Subcommittee #2, the patron amended the language to only apply to Halifax County.

Early childhood education

One area of focus for Governor Northam’s Children’s Cabinet is early childhood development and school readiness. Early childhood care and education programs like child care and Head Start are currently administered across multiple agencies. Two bills seek to make changes aimed at streamlining Early Childhood services:

- [HB 2458 \(Landes\)](#) directs the Virginia Board of Education to establish and administer a statewide unified public-private system for early childhood care and education to ensure school readiness. The bill mandates that this system use both state-level authority and regional-level public-private partnership assets and establishes exemptions from licensure. The bill also creates the Early Childhood Innovation Fund to facilitate regional public-private collaboration and to field test strategies and practices that support a system of comprehensive early childhood care and education services in order to deliver measurable school readiness outcomes and meet regional workforce support needs. The bill has a delayed effective date of July 1, 2021 and directs the Superintendent of Public Instruction to create a plan accordingly. The bill was reported by the House Education Committee on a 20-1 vote and referred to [House Appropriations](#).
- [SB 1095 \(Howell\)](#) creates the Early Childhood Innovation Fund to facilitate regional public-private collaboration and to field test strategies and practices that support a system of comprehensive early childhood care and education services in order to deliver measurable school readiness outcomes and meet regional workforce support needs. The bill was reported from Senate Finance with a substitute, 16-0.

School calendar bills

As in previous years, several school calendar bills were introduced with the intent of giving local school divisions greater autonomy over determining the opening of the school calendar year. These bills subvert the existing so-called “King Dominion Law,” which mandates that local school divisions start after Labor Day unless they are eligible to apply for a waiver from the Virginia Department of Education after missing eight days in a school year and other circumstances. The law was originally created to aid the tourism industry by ensuring that summer extended to Labor Day, however advocates for overturning the provision often cite the

need for increased local flexibility and an earlier school start date to help students prepare for assessments.

- [HB 1652 \(Robinson\)](#) makes local school boards responsible for setting the school calendar and determining the opening day of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of Education may grant waivers of this requirement. The bill requires local school boards that set the school calendar with a pre-Labor Day opening date, except those schools that were granted a "good cause" waiver for the 2018-2019 school year, to close all schools in the division from (i) the Thursday immediately preceding Labor Day through Labor Day or (ii) the Friday immediately preceding Labor Day through the Tuesday immediately succeeding Labor Day. The bill was reported from the House Education Committee on a 17-5 vote.
- [HB 2140 \(Thomas\)](#) permits the Board of Education to waive the requirement to set the school calendar so that the first day students are required to attend school must be after Labor Day for any school board that certifies to the Board of Education that the school division is entirely surrounded by school divisions that each have an opening date prior to Labor Day in the school year for which the waiver is sought. The bill was reported from the House Education Committee on a unanimous vote of 22-0.
- [SB 1005 \(Chase\)](#) is the Senate Companion to HB 1652 and is scheduled to be heard in the [Senate Education and Health Committee](#) on January 31.

Environment and Agriculture Steering Committee

Municipal Net Metering reform

VACo supports [HB 2792 \(Tran\)](#) and [SB 1779 \(Ebbin\)](#), legislation that establishes a six-year pilot program that allows a locality to use excess energy generated by a renewable energy project to be credited towards electric bills for other municipal accounts. Under the program a county could install solar panels or wind turbines “. . . located on airports, landfills, parking lots, parks, post-mine land, or a reservoir that is owned, operated, or leased by the municipality” and use the excess energy generated at the facility to be credited to other metered accounts. The result will be a reduction in the amount of electricity for which the county is billed by the utility.

HB 2792 passed the House Commerce and Labor Committee’s Subcommittee #3 unanimously and will be considered by the full [House Commerce and Labor Committee](#) on Thursday, January 31. SB 1779 reported from the Senate Commerce and Labor Committee unanimously and now heads to the full Senate floor to be voted on.

KEY POINTS

- These bills remove a significant barrier to deploying renewable energy by allowing the energy generated at the site to be credited towards energy consumed at other municipal facilities.
- Generation of renewable energy under the program provides a viable financing mechanism to offset energy consumption and reduce municipal expenditures on electricity.
- HB 2793 and SB 1779 are the products of months of hard work and compromise between Delegate Tran, Senator Ebbin, Dominion Energy, Appalachian Power, the Virginia Association of Counties, and several localities.

Bill adding weddings to the definition of “agritourism activity” advances VACo opposes [HB 2364 \(Knight\)](#), which adds “weddings” to the definition of “Agritourism Activity” under Code of Virginia § 3.2-6400. This is the section of the code that limits the liability of agritourism operators for the risks of agritourism activities. Anything defined in the section as agritourism then triggers section 15.2-2288.6, which limits local regulation of agritourism activity. Defining weddings as agritourism thwarts local authority to address things such as impacts on neighboring property, access, parking, noise, sanitary issues and other concerns. It is important to note that many buildings on agricultural property do not meet the building code and therefore do not address issues such as fire suppression, proper ingress and egress, load bearing issues and electricity concerns when adding lights, amplification and food preparation equipment and related issues.

Therefore, exempting these activities as agritourism activities raises a whole host of concerns for the locality. Currently weddings are occurring on agricultural land in some localities with the appropriate local regulation including special exception and conditional use permits so that impacts of this activity can be addressed.

HB 2364 advanced from the House Agriculture, Chesapeake and Natural Resources Committee’s Subcommittee #1 by a 5-3 vote and passed the full Committee by a 10-7 vote with one abstention. The bill will be heard on the House floor later this week.

KEY POINTS

- Other activities in the section relate to actual agriculture and weddings clearly do not. Adding this definition into the agritourism liability section goes much further than either the agritourism activities liability section or the § 15.2-2288.6 agricultural operation local regulation limitation section intended.
- This bill opens the door to adding more nonagricultural activities into the definition of “agritourism activity,” such as racetracks, concert venues and other business and

commercial without the ability to address the impact of the activity (land use, public safety, fire prevention).

- Puts the public at risk and unfairly affects neighboring properties.
- Most of these buildings do not meet the provisions of the building code.
- Weddings on agricultural property should be subject to appropriate local review and regulation so that impacts may be addressed.

Water quality grant eligibility and reporting bill

VACo supports [HB 1822 \(Bulova\)](#), which expands the eligibility criteria of Water Quality Improvement Fund (WQIF) grants as well as enacts new reporting requirements for WQIF and Stormwater Local Assistance Fund (SLAF).

The bill does three key things:

1. Authorizes the Director of the Department of Environmental Quality (DEQ) to authorize WQIF grants for the design and installation of certain wastewater conveyance infrastructure that diverts wastewater from one publicly owned treatment works that is eligible for grant funding to another such eligible treatment works.
2. Directs the DEQ to consult with stakeholders annually to estimate the amount of grant funding that local governments will request during the upcoming year from WQIF to submit those estimates to the Governor as part of a biennial funding report and an annual progress report that are required by current law.
3. Directs the DEQ to consult with stakeholders annually to estimate the amount of grant funding that local governments will request during the upcoming year from SLAF and to submit those estimates to the Governor as part of a biennial funding report and an annual progress report that are required by current law.

HB 1822 was unanimously reported (22-0) from the House Agriculture, Chesapeake and Natural Resources Committee and was referred to the [House Appropriations Committee](#). There, the House Appropriations Committee's Commerce, Agriculture, Natural Resources and Technology Subcommittee unanimously recommended reporting (7-0), but it has not yet been placed on an agenda for the full House Appropriations Committee.

KEY POINTS

- Current law prohibits WQIF funding for this kind conveyance (piping) infrastructure, and instead only the treatment facilities themselves would be eligible for funding to upgrade their systems, which is significantly more expensive.

- The bill provides localities a much more efficient and cost-effective means to accomplish their wastewater treatment goals.
- The need for WQIF and especially for SLAF funding consistently outweighs the availability of such funds. This bill's reporting requirements will highlight this disparity to the Governor and the General Assembly every year.

Rural stormwater management bill advances

VACo supports [SB 1328 \(Hanger\)](#), a bill that tweaks the current Stormwater Local Assistance Fund (SLAF) in an effort to provide greater assistance to rural communities. Specifically, Senator Emmett Hanger's bill authorizes the Department of Environmental Quality (DEQ) to provide SLAF grants to smaller, rural localities that are not regulated under municipal separate storm sewer (MS4) permits for stormwater management.

In providing these moneys, SB 1328 directs the DEQ to prioritize grants for stormwater management projects that are regional in scope. Eligible projects are those that solely use SLAF funds for stormwater capital projects, including (a) new stormwater best management practices, (b) stormwater best management practice retrofitting or maintenance, (c) stream restoration, (d) low-impact development projects, (e) buffer restoration, (f) pond retrofitting, and (g) wetlands restoration.

The bill was amended in Committee to stipulate that the DEQ may award up to 20 percent of SLAF moneys to non-MS4 localities. This was done to ensure that in the future, a different DEQ Director or Secretary of Natural Resources could not totally eliminate SLAF funding to MS4 localities.

SB 1328 unanimously passed the Senate Agriculture, Conservation and Natural Resources Committee by a 13-0 vote. The bill will be voted on by the full Senate later this week.

KEY POINTS

- The purpose of SLAF is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads.
- Traditionally, the demand for SLAF funds has far exceeded the amount of SLAF funding available.
- Already, small rural localities across the Commonwealth are voluntarily taking steps to improve their water resources and reduce their pollutant loads.
- This bill will ensure these rural localities have reliable, designated support from the Commonwealth.

Local stormwater management fund

Legislation seeking to create a Local Stormwater Management Fund was introduced in the House and Senate this year and continues to move closer to becoming law. The bills, [HB 1614 \(Cole\)](#) and [SB 1248 \(Reeves\)](#), authorize any locality to provide by ordinance the creation of a Local Stormwater Management Fund for providing grants to an owner of private property or a common interest community to be used exclusively for construction, improvement, or repair of stormwater management facilities or for erosion and sediment control. Amendments were adopted for each bill specifying that funds could only be used for stormwater management and erosion prevention “on previously developed lands.”

SB 1248 reported from the Senate Local Government Committee by a 12-0 vote and passed the full Senate by a 40-0 vote. It has now been referred to the [House Counties, Cities and Towns Committee](#). HB 1614 was reported from the House Counties, Cities and Towns Committee’s Subcommittee #3 by a 6-2 vote and will be heard by the full Committee on Friday, February 1.

KEY POINTS

- This legislation provides localities the *option* to create a Local Stormwater Management Fund.
- A Local Stormwater Management Fund will be entirely comprised of local moneys. No state funding, such as the Stormwater Local Assistance Fund (SLAF) can be used to finance a Local Stormwater Management Fund.

Virginia Grocery Investment Fund (VGIF)

VACo supports [SB 999 \(Stanley\)](#), which creates the Virginia Grocery Investment Fund (VGIF). The VGIF seeks to leverage public-private partnerships and provide funding for the construction, rehabilitation, equipment upgrades, or expansion of grocery stores, small food retailers, and innovative food retail projects in underserved communities. The provisions of the bill are contingent upon funding in the revised 2019-2020 budget.

In the Senate, Senator Rosalyn Dance and Senator William Stanley introduced VGIF bills but ultimately, they decided to roll the bills together. SB 999 passed the full Senate unanimously on January 21 and has been referred to the [House Appropriations Committee](#), where it will likely be heard after crossover (February 5).

Delegate Delores McQuinn introduced [HB 1858 \(McQuinn\)](#) as the House VGIF counterpart, but it failed to advance out of the House Appropriations Committee’s Commerce, Agriculture, Natural Resources & Technology Subcommittee.

KEY POINTS

- There are more than 1.7 million individuals across the Commonwealth, including 480,000 children, who live in underserved areas or low-income communities with limited supermarket access.
- Without easy access to affordable and healthy foods, a nutritious diet and good health are out of reach, and as a result, diet-related diseases, like diabetes and heart disease – especially among children – are on the rise.
- The Virginia Grocery Investment Fund would create public-private partnerships leveraging state dollars with private money that will provide one-time, low-interest loans to encourage grocers to open or renovate stores in underserved communities.
- A \$5 million investment from the state could leverage \$15 million in private capital for a \$20 million Virginia Grocery Investment Fund. This amount could support over 10 healthy food retail projects across the Commonwealth.

“Solar Freedom” legislation advances in House, fails in Senate

Sweeping solar energy reform legislation dubbed “Solar Freedom” advanced in the House on Commerce and Labor Committee but failed to escape the Senate Commerce and Labor Committee.

[HB 2329 \(Keam\)](#) and [SB 1456 \(McClellan\)](#) seek to achieve eight key reforms in renewable energy policy in a broad effort to remove barriers and create a stronger market for distributed solar energy.

The eight reforms are:

1. Allowing local government entities to install solar installations of up to 5 MW on government-owned property and use the electricity for schools or other government-owned buildings located on nearby property, even if not contiguous.
2. Clarifying that third-party financing using power purchase agreements (PPAs) is legal statewide for all customer classes.
3. Allowing all customers to attribute output from a single solar array to multiple meters on the same or adjacent property of the same customer. Applies to all net-metered customers. Governments get the added benefit of meter aggregation on non-contiguous sites.
4. Removing the restriction on customers installing a net-metered solar installation larger than required to meet their previous 12 months’ demand. Applies to all net-metered customers.

5. Allowing the owner of a multi-family residential building to install a solar installation on the building or surrounding property and sell the electricity to tenants
6. Raising the size cap for net metered non-residential solar installations from 1 megawatt to 2 megawatt.
7. Lifting the 1 percent cap on the total amount of solar that can be net metered in a utility territory.
8. Remove standby charges on residential installations sized between 10-20 kilowatt.

After substantial debate and discussion, SB 1456 was passed by indefinitely in Senate Commerce and Labor Committee by a 10-3 vote. HB 2329 narrowly advanced out of subcommittee and awaits being placed on an agenda for the [House Commerce and Labor Committee](#).

Finance Steering Committee

Oppose legislation affecting valuation of machinery and tools

[HB 2640 \(Byron\)](#) would change a long-standing interpretation of one of the methods of valuation of machinery and tools currently specified in statute. **VACo opposes this legislation.**

Currently many localities value machinery and tools based on a percentage or percentages of the cost when originally purchased – an approach affirmed by two opinions of the Attorney General, two rulings of the Tax Commissioner, and a Circuit Court decision upheld by the Virginia Supreme Court. Some localities use a static percentage of the original cost, and some localities use a sliding scale of declining percentages over time, based on how long the machinery has been in use.

The bill would require the valuation instead to be based on a percentage or percentages of what the current owner paid for it, plus any cost incurred by the current owner to extend the useful life of the equipment, assuming the current owner acquired the equipment in an arm's length transaction. This provision could create a situation in which the same equipment of the same age is valued differently, depending on whether it is still owned by the original owner or has been sold to a new owner. Several local government attorneys have also expressed concern that some transactions that are technically conducted at arm's length could nevertheless artificially reduce the value of the property.

The bill was reported from House Finance on Monday, January 28, and is currently on the House floor. **Please speak with [House members](#) and [Senate Finance Committee](#) members to oppose HB 2640.**

KEY POINTS

- This bill would change long-standing practice and has the potential to reduce local revenues. Several localities responding to [the fiscal impact survey conducted by the Commission on Local Government on the bill](#) reported significant expected revenue losses should the bill pass, as well as additional administrative complexity in changing from a well-established valuation method to a new method.
- Changing to a new methodology while also preserving uniformity, as Constitutionally required, will be disruptive to taxpayers as well as to localities.
- Taxpayers who feel that the current system unfairly values machinery and tools currently have the ability to submit an independent appraisal to the Commissioner of the Revenue, who must consider the appraisal in valuing the property.

Study language in budget amendments proposes eliminating machinery and tools taxes for new equipment, reimbursing local governments

[Item 255 #1h \(Robinson\)](#) and [Item 255 #1s \(Wagner\)](#) direct the Secretary of Finance to convene a stakeholder group to develop a proposal to eliminate machinery and tools taxes for the first five years of service for new equipment and to reimburse localities for the lost revenue, up to \$50 million annually. The proposal is to include recommendations on the sources of revenue to be used to reimburse localities, and state agencies are to provide technical assistance with assessing the economic impacts of the proposal as well as with developing a methodology for distributing revenues to localities.

Proposals to eliminate the tax for new machinery and provide for reimbursements to local governments are problematic because they leave localities dependent upon the General Assembly maintaining its commitment to make the payments in future years. Proposals put forward in the past to retain the tax but provide for state assistance to the taxpayer in the form of state income tax credits or other mechanisms, are a better approach from VACo's perspective.

Constitutional amendments mandating additional local tax relief revised in House subcommittee; remain mandatory in Senate version

VACo has expressed opposition to proposed Constitutional amendments that, as introduced, would expand current mandatory real property tax exemptions to additional qualifying individuals or create a new mandatory personal property tax exemption. Although the three amendments under consideration this year are all intended to benefit deserving citizens -- disabled veterans and their surviving spouses -- as introduced, their provisions would be added to the current mandatory real property tax exemptions (for disabled veterans and their surviving spouses and the surviving spouses of servicemembers who are killed in action). These two exemptions have been a strain on local budgets, costing localities more than \$50 million statewide in 2018, according to a recent survey by the Commissioners of the Revenue.

[HJ 657 \(Pogge\)](#), as introduced, would expand the existing mandatory real property tax exemption for the surviving spouses of disabled veterans to apply in cases in which the veteran died prior to January 1, 2011. Currently, the exemption applies in cases in which the veteran died after that date. [HJ 676 \(Filler-Corn\)](#), as introduced, would mandate a personal property tax exemption for a motor vehicle owned by a veteran of the U.S. armed forces or the Virginia National Guard who has a 100 percent service-connected, permanent disability. Currently, localities have the authority to provide for taxation of a motor vehicle owned by a veteran with certain disabilities at a lower rate or to provide a full exemption, at local option, although the language in the existing Code differs from the criteria applicable in the Constitutional amendment. During the initial subcommittee hearing on the measures, **VACo expressed concern** about expanding existing mandatory tax exemptions. During the subcommittee hearing on January 28, amended versions of both measures were reported as local options. The substitute version of HJ 657 appears to make the existing disabled veterans exemption a local option. The resolutions will be heard in full Committee on Friday, February 1.

[SJ 278 \(Reeves\)](#), the companion measure to HJ 676, relating to personal property tax exemptions, was heard in the Senate Privileges and Elections Committee on Tuesday, January 22, and reported unanimously, with one abstention. The measure, which retains the mandatory provisions, passed the full Senate unanimously on January 28.

A budget amendment introduced by Delegate Bob Thomas, [Item 264 #1h](#), would provide \$2 million from the General Fund in FY 2020 to compensate localities where more than one percent of the real property is exempt from taxation due to the exemption for disabled veterans. The Department of Taxation and Department of Accounts would develop a methodology for distributing funds to affected localities. **Please thank Delegate Thomas for his efforts to provide some state assistance to mitigate the effects of this mandatory exemption.**

KEY POINTS

- Please thank the House patrons for amending their proposals to remove the mandate on localities.
- Please encourage [House Privileges and Elections Committee](#) members to take similar action on the Senate measure. The existing mandatory real property tax exemptions are a stressor on local budgets, particularly given counties' reliance on real property taxes as a revenue generator.
- The state could provide additional tax relief to veterans through an income tax credit or other mechanism, which would not require going through the Constitutional amendment process.

Legislation moving forward to enact Constitutional amendments approved in 2018

[HB 1655 \(Miyares\)](#) and [SB 1270 \(Stuart\)](#) allow “portability” of the existing real property tax exemption for the surviving spouses of disabled veterans, pursuant to the Constitutional amendment approved by the voters at the November 2018 election. Under current law, the surviving spouse is eligible to retain the property tax exemption provided he or she does not remarry and continues to occupy the dwelling he or she shared with the disabled veteran who originally qualified for the tax exemption. The Constitutional amendments were introduced to address a situation in which a surviving spouse wished to “downsize” to a smaller house but was unable to relocate without losing the property tax exemption. The other mandatory exemption, for surviving spouses of servicemembers killed in action, allows for portability, as does the local option exemption for surviving spouses of first responders killed in the line of duty. VACo and VML were unsuccessful in attempts to amend HB 1655 and SB 1270 to provide that if a surviving spouse of a disabled veteran moved to a more valuable property, the current amount of exemption would be portable, but that the value of the property in excess of the exemption currently received would be taxable. HB 1655 passed the House and awaits action in [Senate Finance](#); SB 1270 has passed the Senate and been referred to [House Finance](#).

[SB 1588 \(Lewis\)](#) authorizes local governing bodies to provide a partial tax exemption for real property that is subject to recurrent flooding and upon which qualifying improvements have been made. The locality may establish parameters for the exemption, such as flood protection standards that must be met, duration of the exemption, and applicability in certain areas.

Food truck legislation passes Senate in amended form

[SB 1425 \(Dunnavant\)](#) passed the Senate in significantly amended form on Thursday, January 24. The original bill sought to assist small food-truck businesses by requiring that a food-truck owner would only have to pay license taxes in the jurisdiction in which the business was registered and personal property taxes were paid on the truck. **VACo opposed the bill**, pointing out that its broad applicability would allow even large, well-established businesses not to register or pay license taxes (generally, a “peddler’s license” capped at \$500 annually) in localities where they operated outside of their “home” jurisdictions. The bill was unanimously reported from Senate Finance, but members requested that the patron work with VACo and VML to address local governments’ concerns. As amended, food trucks will still need to register with the Commissioner of the Revenue or the director of finance in localities in which they do business – an important safeguard for ensuring that meals and sales taxes collected are correctly apportioned – and the exemption from paying license taxes will only apply to small businesses (operating three or fewer trucks) in their first two years of operation. Amendments to carve out festivals or other special events were not accepted, but the floor substitute overall is a significant improvement over the bill as introduced.

Continue discussions about taxing authority

Broad legislation to equalize taxing authority between counties and cities failed in Senate Finance and, as of this writing, awaits a hearing in House Counties, Cities, and Towns. More limited legislation allowing counties to levy taxes on cigarettes, whether pursuant to a referendum – [SB 1512 \(Carrico\)](#) or without ([HB 1946 \(Campbell\)](#)) – also failed, albeit narrowly in a House Finance Subcommittee.

However, legislation that establishes definitions for certain alternative tobacco products used in “vaping,” [SB 1371 \(Norment\)](#), also includes a provision extending language included in the 2018 Appropriations Act directing the Joint Subcommittee to Evaluate Tax Preferences to study “possible reforms to the taxation of tobacco products that will provide fairness and equity for all local governments and also ensure stable tax revenues for the Commonwealth.” The bill has passed the Senate and no opposition was expressed in its committee hearing; similar language has been included in a budget amendment. This study directive presents an opportunity for a further discussion about equity in revenue generation.

Please continue to speak with your [legislators](#) about the importance of revenue diversification for counties.

KEY POINTS

- County and city residents expect similar services to be provided by their local governments, but city governments have more tools at their disposal to raise necessary revenues.
- Counties are overly reliant on real property taxes to fund necessary governmental functions, which leaves county governments vulnerable to downturns in the real estate market.
- Equal taxing authority merely means empowering boards of supervisors to levy the same taxes that cities and towns can already collect. Members of boards of supervisors are accountable to their constituents for all decisions they make, including decisions about raising revenues.

Budget amendment revisits local staffing mandate for Commonwealth’s Attorneys’ offices

Budget language would have required localities to fund new positions in Commonwealth’s Attorneys’ offices in accordance with a ratio of one Assistant Commonwealth’s Attorney per 50 cameras in use. This language addresses concerns from the Commonwealth’s Attorneys about the volume of footage generated by body-worn cameras that they are ethically obligated to review. After objections from local governments, the language was revised to direct the Compensation Board to convene a study group instead.

The workgroup met several times in the fall, and produced a report with several recommendations. Chief among them were that the state needs to meet its obligations in funding the existing Compensation Board-approved staffing standards for Commonwealth's Attorneys' offices, which have not been fully funded in 10 years. Localities are already providing considerable support to Constitutional officers, including Commonwealth's Attorneys' offices, by funding supplemental positions and providing salary supplements. A compromise recommendation in the report, which has been introduced as [Item 73 #3s \(Norment\)](#), would provide that a locality would be able to work with its Commonwealth's Attorney to address staffing needs resulting from body-worn camera use. If the locality and the Commonwealth's Attorney failed to agree, the locality would need to provide additional staffing at a ratio of one Assistant Commonwealth's Attorney per 75 cameras in use, with consideration given to the additional local support for staff that have already been provided to address body camera-related workload. A more detailed study would be undertaken to collect additional data and recommend potential changes to staffing ratios by December 1, 2020.

The Governor's budget includes \$723,420 GF in FY 2020, which is intended to address workload issues in Commonwealth's Attorneys' offices related to body-worn cameras, according to the Department of Planning and Budget.

General Government Steering Committee

Construction contracts statute of limitation bills advance

Legislation introduced by Senator Thomas Norment and Delegate Terry Kilgore seeks to change the statute of limitations on actions on construction contracts and sureties on performance bonds.

As originally introduced, [SB 1369 \(Norment\)](#) and [HB 1667 \(Kilgore\)](#) provided that no action may be brought by a public body on any construction contract unless such action is brought within five years after substantial completion of the work on the project and that no action may be brought by a public body on a warranty or guarantee in such construction contract more than one year from the breach of that warranty, but in no event more than one year after the expiration of such warranty or guarantee. The bill also sought to limit the time frame during which a public body may bring an action against a surety on a performance bond to within one year after substantial completion of the work on the project.

Under current law, a public body is enabled to bring such an action within one year after (1) completion of the contract, including the expiration of all warranties and guarantees, or (2) discovery of the defect or breach of warranty that gave rise to the action. Thus, these two bills represented a sweeping change.

When first introduced, the bills saw substantial opposition and concerns from the Northam Administration, numerous state agencies including the Department of Transportation and the

Department of General Services, the higher education community, and local government representatives from VACo and VML. Ultimately, Senator Norment agreed to amend the bill and offered a substitute. As amended, the bill now prohibits action on any construction contract unless such action (1) is brought within five years of completion of the work; (2) in the case of latent defects, is brought within five years of discovery of a latent defect but not more than 10 years from completion of the work; or (3) in the case of a warranty in such a construction contract, is brought no more than one year after the expiration of such warranty.

SB 1369 reported from the Senate Courts of Justice Committee, 13-0-1, and was rereferred to the [Senate Finance Committee](#). HB 1667 was introduced earlier in the session and ran into the same opposition, but ultimately passed out of Subcommittee on a contested vote. HB 1667 will be reevaluated in the House Courts of Justice Committee's Subcommittee #2 on Wednesday, January 30, where it will be amended to conform to SB 1369.

Eminent domain bills advance

A series of eminent domain bills have passed the Senate and will soon be heard in the House.

Senator Chap Petersen introduced [SB 1403 \(Petersen\)](#) and [SB 1404 \(Petersen\)](#). SB 1403 seeks to level the playing field when it comes to who/what the condemning entity is. Currently, condemnors that are public service companies, public service corporations, railroads, or government utility corporations have their costs assessed differently than other parties. SB 1403 eliminates specific provisions for these condemnors and stipulates that all costs shall be assessed in the same manner, regardless of the identity of the condemnor. SB 1403 reported from the Senate Courts of Justice Committee by an 11-0-2 vote and ultimately passed the Senate, 37-1-1.

SB 1404 makes stipulates three provisions. First, it provides that the costs of filing a petition with the court for the distribution of the funds due pursuant to an eminent domain proceeding shall be taxed against the condemnor. Second, it stipulates that the interest rate on the funds represented by a certificate of deposit from the date of filing of the certificate until the funds are paid into the court shall not be less than the judgment rate of interest. And third, the bill reorganizes for clarity the provisions governing what happens upon recordation of a certificate by the Commissioner of Highways in a condemnation proceeding. SB 1404 reported from the Senate Courts of Justice Committee by a 10-2-1 vote and passed the Senate, 39-1.

Senator Mark Obenshain's eminent domain bill, [SB 1421 \(Obenshain\)](#), makes a number of changes to provisions pertaining to entry upon private property in an eminent domain proceeding. Additionally, the bill addresses how compensation for the taking of property in an eminent domain proceeding is calculated and allows a person to recover damages resulting from reformation, alteration, revision, amendment, or invalidation of a certificate in an eminent domain proceeding. SB 1421 reported from the Senate Courts of Justice Committee by a 13-0 vote and unanimously passed the Senate.

All three bills have been referred to the [House Courts of Justice Committee](#).

Troublesome FOIA bill reintroduced

VACo opposes [SB 1554 \(Surovell\)](#), a reboot of last year's [SB 630 \(Surovell\)](#), which provides that in addition to any penalties imposed under FOIA, if a court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of FOIA because such officer, employee, or member of a public body altered or destroyed the requested public records with the intent to avoid the provisions of this chapter prior to the expiration of the applicable record retention period pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.), the court may impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

In addition, the bill provides that if a court finds that a member of a public body voted to certify a closed meeting and at the time of such certification such certification was not in accordance with the requirements of FOIA, the court may impose on each such member voting to certify in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of \$500, which amount shall be paid into the Literary Fund.

The bill would allow a court to penalize individuals for unintentional and inadvertent discussions about things such as a person's health and other inadvertent conversations as violations of the closed meeting provisions of the Freedom of Information Act. The act already has adequate remedies for violations, and these additional individual civil penalties are unnecessary and extreme.

The bill passed Senate General Laws and Technology Committee by a vote of 11-2 and is currently on the Senate floor.

Bills mandate COIA and FOIA training for Local Elected Officials

[SB 1430 \(Obenshain\)](#) and [SB 1431 \(Obenshain\)](#), as introduced, mandate COIA and FOIA training for local elected officials by December 31, 2019, and thereafter biennially. SB 1430 requires the Conflicts and Ethics Advisory Commission to provide the training. In addition, this bill prohibits an attorney for the Commonwealth from also serving as a county, city or town attorney.

SB 1431 requires mandatory FOIA training from the FOIA Council for all local elected officials. Currently, local government records officers are required to take training yearly by either the FOIA Council or the local government attorney.

In addition to the new training requirements, the bill eliminates a three-day notice period for a hearing on a petition for mandamus or injunction for a violation of the law involving open meetings. A substitute was adopted which moves the initial training deadline for training to be completed to December 31, 2020.

SB 1431 passed the Senate General Laws and Technology Committee by a 12-0 vote and was rereferred to [Senate Finance](#), while SB 1430 will be heard by the [Senate Rules Committee](#) sometime before the end of next week.

Bills propose harmful changes to local government grievance procedure

[HB 2736 \(Hugo\)](#) proposes some major changes to the local grievance procedure, including requiring that the final step of the procedure be agreed upon by the aggrieved employee, doing away with any existing impartial hearing panels and eliminating the provision for determining if the decision is in conformance with local policy. HB 2736 will be heard in [House Counties, Cities and Towns Committee's Subcommittee #2](#) on Wednesday, and if passed it will be taken up by the full committee on Friday, February 1. The Senate counterpart to this bill, SB 1783, was struck by the patron in the Senate Local Government Committee on Tuesday, January 29.

KEY POINTS

- Longstanding impartial grievance panels used by localities will be eliminated.
- The grievant must consent to the last step of the procedure and the default is the three-member panel.
- The bill would eliminate the provision that the decision complies with local government policy which under current law can be made by the chief administrative officer of the locality.
- Police employees currently have a choice of two grievance procedures (Law Enforcement Procedural Guarantees Act) so changing this local grievance procedure based on their request is unwarranted.

Bills to address “Misassigned Voters” moving forward

[SB 1102 \(Peake\)](#), the product of discussions with stakeholders convened over the summer by Senator Mark Peake, addresses situations where there is a discrepancy between a boundary line for a Congressional or state legislative district (which are based on Census blocks) and the boundary line between localities traditionally used by the localities, but the lines are close. The bill sets out a process by which the localities could agree to adjustments in the boundary line (for example, to determine where individuals whose properties straddle two localities should be determined to reside), adopt those changes by ordinance, and report the changes to the Census Bureau and several state entities; the legislative district boundary would then conform to those locally agreed-upon changes. Voters who believe that they have been incorrectly assigned would have a chance to request a review of their assignments. The State Board of Elections would also have a chance to review the proposed changes to ensure they were made without fraudulent

intent. The bill was unanimously reported from the Senate Privileges and Elections Committee and has passed the Senate.

VACo also supports two related bills, [HB 1649 \(Fowler\)](#) and [SB 1594 \(Dunnavant\)](#), which would allow all localities to use GIS maps in making voluntary boundary adjustments. Currently only certain localities are allowed this option, which is less expensive than a full survey. HB 1649 has passed the House, and SB 1594 is on the Senate floor.

Several bills are intended to require localities to check voter assignments. [SB 1018 \(Chase\)](#) requires that each locality review voter assignments for correctness by comparing the assignments with a Geographic Information System map, which would be provided by the state unless the locality had its own. The state would also aid with the review, which must be completed prior to the 2020 general election, upon request. After being reported unanimously from Senate Privileges and Elections, the Senate Finance Committee advanced the bill with the addition of financial contingency language providing that funds must be included in the budget in order for the bill to take effect. A similar bill, [HB 2760 \(Sickles\)](#), would require that GIS maps be used in local redistricting and provides that the state Department of Elections would review these maps and the voter district assignments for accuracy and direct any corrections to be made if necessary. **VACo has worked with the patron** to ensure that the state would provide GIS maps to localities without in-house GIS capacity.

Measures take different approaches to split voting precincts

VACo has historically supported efforts to minimize split voting precincts, which are difficult to administer and often confusing for voters. **VACo supports** [HJ 591 \(Cole\)](#), which would allow the General Assembly to make technical adjustments to legislative district lines after decennial redistricting in order to move General Assembly or Congressional district lines to coincide with local precinct boundaries. [SB 1087 \(Obenshain\)](#) provides that localities will be responsible for adjusting precinct boundaries after the General Assembly completes its redistricting process so that no precincts are split. If splitting a precinct is unavoidable, the governing body must apply to the State Board of Elections for a waiver to operate a split precinct; the State Board may grant a waiver or direct the governing body instead to establish a precinct with less than the minimum number of voters established in statute (currently 100 registered voters per precinct in a county and 500 in a city).

Election security bills under consideration

[HB 2178 \(Sickles\)](#) and [HB 2787 \(Rush\)](#) direct the State Board of Elections to promulgate regulations and standards to “ensure the security and integrity of the Virginia voter registration system and the supporting technologies utilized by the counties and cities to maintain and record registrant information.” The bills respond to concerns about protecting the state voter registration database, VERIS, which contains sensitive personal information, from cyberattacks or other threats. Under the bills, after the standards are developed, they would be updated at least annually, and each electoral board would be responsible for developing and annually

updating plans to ensure the security of supporting technology that it uses to maintain voter registration information. The Department of Elections would be empowered to restrict access to VERIS for localities that did not comply with the security standards.

VACo, along with VML and representatives of local information technology departments, is working with the Administration and the patrons on proposed amendments to the bills to ensure that they provide for local participation, both in the initial development of the standards and on an ongoing basis as standards are updated. While protection of voter information is a shared priority for both the state and localities, it is important that local staff with expertise in information technology participate in the development of security standards that are reasonable for both larger and smaller localities.

VACo has also worked with interested members of the elections community to submit budget amendments that would create a workgroup to examine resource needs in election administration, both currently and in the future, and cybersecurity resource needs may be a topic that could be discussed in such a venue.

“Super Precincts” bill offers option for efficiency in June primaries

[HB 2447 \(Wilt\)](#) would authorize the State Board of Elections to supervise pilot programs for the use of “super precincts” in June primary elections in interested counties and cities. The bill sets out parameters for the size of super precincts and provides for reporting on the implementation and effectiveness of the pilot program, which would expire at the end of 2023. **VACo supports** the bill, which is consistent with language in its legislative program endorsing this type of approach as an efficiency measure; typically, June primaries feature extremely low turnout and staffing each regular precinct with a full complement of machines and officers of election may not be warranted.

No-excuse absentee voting in person advances in House and Senate

Measures have been introduced for many years seeking to expand voters’ ability to vote absentee without providing one of the statutory list of excuses and have historically failed in the House. [HB 2790 \(Rush\)](#), which was reported from subcommittee on Tuesday, January 29, would allow a registered voter to vote absentee in person without providing an excuse beginning on the second Saturday before an election. In-person absentee voting would be conducted in the office of the general registrar or the secretary of the electoral board, with additional locations made available by the electoral board at its option. The bill will be before the full [House Privileges and Elections Committee](#) on Friday, February 1. The Senate Privileges and Elections Committee reported a substitute for [SB 1026 \(Spruill\)](#) on Tuesday afternoon that, as presented to the Committee, appears to be similar to HB 2790.

Other election bills of interest

[HJ 615 \(Cole\)](#), a Constitutional amendment regarding redistricting, would set up a Virginia Independent Redistricting Commission to propose new legislative districts pursuant to decennial reapportionment. The resolution sets out the membership of the state commission and the criteria for redrawn districts. It also requires that each local governing body in which members are elected from districts must establish a local redistricting commission after each Census to submit proposed new districts for consideration by the governing body as a proposed ordinance.

Legislation to delay the June primary date – [SB 1243 \(Reeves\)](#) – so as to make it more likely that students will be out for the summer narrowly failed on the Senate floor over concerns about whether a later date would depress voter turnout. A companion bill, [HB 1615 \(Landes\)](#), was reported from a House subcommittee Wednesday morning. [HB 1752 \(Krizek\)](#), which has passed the House, requires that Election Day in November be a school holiday.

[SB 1016 \(Chase\)](#) requires candidates for Constitutional offices who are nominated by a political party or in a primary to be identified by a party label on the ballot; the bill narrowly passed the Senate on January 23 by an 18-22 vote.

Several bills would have allowed for ranked-choice voting in local elections. [SB 1731 \(Ebbin\)](#) would have allowed city council or board of supervisor elections to be conducted in this manner, with the decision to do so being made by a majority vote of the city council or board of supervisors, and any costs incurred by the state Department of Elections to be borne by the locality. The bill was passed by indefinitely in the Senate Privileges and Elections Committee. A similar bill, [HB 2751 \(Toscano\)](#), was tabled in a House Privileges and Elections subcommittee last week, as was [HB 2097 \(Freitas\)](#), which would have also allowed for Constitutional officers to be elected in this fashion, in addition to members of local governing bodies.

A bill generating some media attention, [HB 2034 \(McGuire\)](#), sets out a process in circuit court for the removal of a general registrar upon petition by the local electoral board or the State Board of Elections; currently, a general registrar may be removed by a majority vote of the local electoral board, or by a court upon petition of the State Board of Elections if the local electoral board refuses to remove the general registrar. The bill provides that the state's Division of Risk Management will provide counsel for the defense of a member of a local electoral board or a general registrar subject to a petition for removal, upon request.

GIS mapping for voluntary boundary line adjustments

VACo supports [HB 1649 \(Fowler\)](#) and [SB 1594 \(Dunnavant\)](#), which allow localities to make voluntary boundary line adjustments using Geographic Information System (GIS) surveys. This streamlined process to address situations in which census boundaries do not align with locally drawn or commonly adhered to boundaries is less costly and more efficient than completing an expensive “metes and bounds” survey.

HB 1649 reported from the House Counties, Cities and Towns Committee by a unanimous 20-0 vote and passed the full House unanimously as well (97-0). Delegate Fowler's bill has now been referred to the [Senate Local Government Committee](#).

SB 1594 reported from the Senate Local Government Committee, 13-0, and now awaits a final vote and passage on the Senate floor.

KEY POINTS

- Current law permits the use of GIS mapping for voluntary boundary line adjustments in only three instances: regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, or between the Counties of Spotsylvania and Orange.
- These bills would enable *all* localities to use this valuable, cost-effective, and efficient tool in establishing voluntary boundary line adjustments.

Troubling fleet vehicle tracking bill introduced

A troubling vehicle tracking bill has been introduced that would negatively impact localities across the Commonwealth. [HB 2412 \(Adams, L.\)](#) seeks to require the owner of fleet vehicles to obtain consent of the vehicle operator before installing or placing an electronic device on the fleet vehicle to track it.

Under the language of the bill, the definition of "fleet vehicle" includes vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes. Law-enforcement officers, judicial officers, probation or parole officers, or employees of the Department of Corrections when any such person is engaged in the lawful performance of official duties and in accordance with other state or federal law are exempted from this requirement. **Of concern to VACo**, however, no other local government uses are exempted.

VACo has been in touch with Delegate Adams' office about our concerns, as have a number of localities and organizations. So far, Delegate Adams has removed the bill from the House Courts of Justice Committee's Subcommittee #1 docket several times as he seeks to gather and consider our concerns.

As of Wednesday, January 30, the bill has yet to be placed on another agenda.

KEY POINTS

- According to the Code of Virginia, "fleet vehicle" is defined as "(i) one or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the general public, or (iii) motor vehicles held for sale by motor vehicle dealers."

- While law enforcement would be exempted from this requirement, a wide array of other government vehicles would not be, including, but not limited to, fire department vehicles, EMS vehicles, public works vehicles, local transit vehicles, and school board vehicles (including buses).

Alcohol beverage reform bills moving forward

Two bills seeking to reform one of Virginia's foremost alcohol beverage control laws have advanced in their respective chambers. The bills, introduced by Senator Bryce Reeves and Delegate Chris Hurst, seek to allow the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, and a majority of votes prohibit such sales.

Today, state law prohibits such sales in a locality unless they have been approved through a local referendum process. These bills would essentially flip a presumption of "dry" to "wet," while still affording localities the chance to hold a referendum to remain "dry."

The legislation includes a grandfathering provision that allows the granting of a mixed beverage license to any specific establishment that was in effect prior to the effective date of this bill, notwithstanding the provisions of the bills related to local referendums but subject to other applicable laws and regulations. The legislation also provides that the result of any referendum held prior to the effective date of the bill shall remain valid and enforceable. Finally, the bills have a delayed effective date of July 1, 2020 to allow localities a full year to adapt or make plans for a referendum.

Currently, there are nine remaining dry counties in Virginia: Bland, Buchanan, Charlotte, Craig, Grayson, Highland, Lee, Patrick and Russell. State code has become rife with special exceptions for specific establishments, and current law does allow for alcohol referendums to be held for specific magisterial districts, so beyond these nine totally dry counties, portions of an additional 31 counties are also dry.

[SB 1110 \(Reeves\)](#) reported from the Senate Committee on Rehabilitation and Social Services by a vote of 11-3 before being passed by the full Senate by a vote of 23-17. The bill will now be heard by the House, where it has been referred to the [House General Laws Committee](#).

[HB 2634 \(Hurst\)](#) reported from the House General Laws Committee by a vote of 16-6 and is now on the House floor where it will be voted on this week.

Mandate to post all financial transactions online to be voted on Senate Floor
VACo opposes [SB 1262 \(Sturtevant\)](#) and [HB 1907 \(VanValkenburg\)](#), which are proposals that would require every locality with a population greater than 25,000, and every school division with greater than 5,000 students, to post on its website a register of all transactions. This includes

vendor name, date of payment, amount and description of the type of expense. Given the potential costs for localities to comply with this mandate, it should be a local option. In addition to the cost of software, the bill would require significant staff time to implement, since staff would need to review transactions and redact certain payments (such as payments to undercover law enforcement). HB 1907 failed in subcommittee. SB 1262 was reported by the Senate Local Government Committee, 9-4.

Presumptive illness legislation

Three bills continue to make their way through the General Assembly with the potential to provide major disruption to presumptive illness coverage through workers' compensation. **VACo staff expressed concern** in public testimony and in meetings with legislators regarding the potential fiscal impact of the bills on localities and cautioned that any major legislative action on Workers' Compensation Presumption issues should wait until the Joint Legislative Audit & Review Commission (JLARC) completes its [study](#) of the issue. If enacted, this legislation will likely lead to higher employer premiums paid by localities to cover the expanded liabilities.

The three bills are:

- [SB 1030 \(Cosgrove\)](#) / [HB 1804 \(Hugo\)](#) adds cancers of the colon, brain, or testis to the existing list of conditions currently presumed to be an occupational disease when developed by firefighters and certain public employees and therefore covered by the Virginia Workers' Compensation Act. The bills also remove the compensability requirement that the employee who develops cancer had contact with a toxic substance encountered in the line of duty. SB 1030 was referred to Senate Finance where a series of action-packed votes, the Committee first failed to pass SB 1030 indefinitely and refer to JLARC on a 7-9 vote. The Committee then failed to report the bill with a financial enactment clause on a tie 8-8 vote. Finally, the Committee reported the bill 14-2. The Senate passed the bill on a vote of 39-1. HB 1804 was reported from the House Commerce and Labor Committee and referred to the House Appropriations Committee's Compensation and Retirement Subcommittee on a vote of 22-0. The bill will likely be heard on January 31 at 3 p.m.
- [HB 2513 \(Hugo\)](#) establishes a presumption that Post-Traumatic Stress Disorder (PTSD) is an occupational disease for firefighters, law-enforcement officers, 9-1-1 emergency call takers, and other first responders and is therefore covered by the Virginia Workers' Compensation Act. The House Commerce and Labor Committee's Subcommittee #2 recommended reporting and referring the bill to House Appropriations on a 5-3 vote.

Mandate to post all financial transactions online to be voted on Senate Floor

VACo opposes [SB 1262](#) (Sturtevant) and [HB 1907](#) (VanValkenburg) is a proposal to require every locality with a population greater than 25,000, and every school division with greater than 5,000 students, to post on its website a register of all transactions. This includes vendor name,

date of payment, amount and description of the type of expense. Given the potential costs for localities to comply with this mandate, it should be a local option. In addition to the cost of software, the bill will require significant staff time to implement, since staff would need to review transactions and redact certain payments (such as payments to undercover law enforcement). HB 1907 failed in subcommittee. SB 1262 was reported by the Senate Local Government Committee, 9-4.

Health and Human Resources Steering Committee

Children’s Services Act bills seek flexibility in use of funds

VACo has historically supported enabling school divisions to build local capacity to serve children with high-level needs in their home communities, alongside their siblings and peers without disabilities, to the extent their needs can be met in the public system. Currently, under the Virginia Department of Education’s 2010 interpretation of federal law, CSA funds cannot be used for services within public schools during the school day (but may be used for “wraparound” services before or after school that may help students with special needs remain in the community) and are limited to funding private placements (in private day or residential arrangements). The House Appropriations Committee has typically been hostile to legislation providing additional flexibility for the use of CSA funds for public placements, but an approach put forward in a Senate subcommittee on January 28 is promising.

[HB 1619 \(Thomas\)](#), which seeks to allow CSA funding to be allowed to be used for children transitioning from private placements to a Stafford County public school special education program, when the public program is able to meet the students’ needs, was reported from the House Education Committee, but tabled in a subcommittee of House Appropriations. [SB 1104 \(Peake\)](#), as introduced, was more broadly drafted and provided that CSA funds may be used to pay for services within public schools. The Senate Finance Committee’s Health and Human Resources Subcommittee reported an amended version of the bill on Monday night that would instead allow the existing “wraparound” allocation of funds to be used for services within the public school setting and require annual reporting on the use of the funds. CSA coordinators have frequently expressed interest in making better use of wraparound funds, which are a separate, capped allocation, and the amended bill may provide an opportunity to demonstrate that certain services within public schools may help to maintain children in the public school setting.

[HB 2408 \(Adams, L.R.\)](#) would direct the Department of Education to work with two school divisions on pilot projects to study the feasibility of transitioning students who are receiving special education in private school settings to an appropriate public school setting, including what resources would be needed to support each student. The Department would also be directed to recommend a process for redirecting funds, including CSA funds, to the school division to support the resources needed to meet the students’ needs within the local division. HB 2408 has also been referred to House Appropriations and is awaiting a hearing in

subcommittee. [SB 1576 \(Suetterlein\)](#), a similar bill, requires pilots to be conducted for up to four years in two to eight local school divisions and requires reporting to the Governor and relevant legislative standing committees on the outcomes for children enrolled in the pilot projects. The bill was reported from the Senate Education and Health Committee and awaits action in [Senate Finance](#).

Jail health care standards advance; VACo supports helpful bill to address costs for state-responsible inmates

[HB 1918 \(Stolle\)](#) and [SB 1598 \(Dunnavant\)](#), both recommendations of the Joint Commission on Health Care, direct the Board of Corrections to establish minimum standards for health care, including mental health care, in local and regional jails, and require jails to report on the delivery of services quarterly. Under the bills, the Board of Corrections may allow jails to meet these standards by virtue of their accreditation by the American Correctional Association or the National Commission on Correctional Health Care, but those jails will still be required to submit quarterly reports. [HB 1942 \(Bell, R.B.\)](#), a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, requires the Board of Corrections to develop standards for the provision of behavioral health services in local and regional jails, to include standards for discharge planning for inmates with serious mental illness.

VACo has had productive conversations with the three patrons of these bills about the need for more state support for jail operations, and HB 1942 was amended in subcommittee to add language at the request of VACo, VML, and other stakeholders, providing that the Board of Corrections would convene a workgroup to determine the costs of implementing the new standards. This workgroup will provide a venue to have further discussions about resources necessary to enhance care in jails. HB 1918 and HB 1942 have been reported from the full House Health, Welfare, and Institutions Committee; SB 1598 was reported from Senate Rehabilitation and Social Services Committee and is now before [Senate Finance](#).

[SB 1040 \(Peake\)](#) seeks to assist local jails with the costs of housing state-responsible inmates (inmates convicted of felonies who are sentenced to one year or more) by requiring the state to compensate local jails for the actual costs of housing these inmates, as calculated by the Compensation Board in its annual report. **VACo supports** enhanced state assistance in funding jail operations and spoke in favor of the bill when it was heard in Senate Finance, where the committee attached funding contingency language and reported the bill. The bill has since passed the Senate and been referred to [House Appropriations](#).

This issue will be a continuing matter for discussion with the legislature and the Administration as the Board of Corrections develops standards.

KEY POINTS

- Local governments want to ensure that all inmates receive appropriate care while incarcerated. Depending on the new standards that are developed, more resources will be necessary in some instances to meet higher standards of behavioral health care, which is

largely funded by localities now. In the Compensation Board's 2017 report on mental illness in jails, it noted that the total cost of mental health treatment in jails was \$16.1 million in FY 2017, with 76 percent of those costs being funded by local governments.

- Jail per diems have not been adjusted since they were set by the 2010 General Assembly at \$4 per day for local-responsible inmates (a reduction from \$8 per day) and \$12 per day for state-responsible inmates (an adjustment from \$8 per day for the first 60 days and \$14 per day thereafter to a standard rate of \$12 per day).

VACo supports legislation retaining local control over local parks and recreation programs

VACo supports [HB 2280 \(Head\)](#), which preserves the current status of child day programs operated by local parks and recreation departments with respect to state regulation. The bill returns local parks and recreation programs serving school-age children, as well as certain programs operated by local school divisions, to the category of programs not considered to be child care. The parks and recreation programs would remain subject to safety and supervisory standards established by the local government, as they are today. Omnibus legislation dealing with the regulation of child day programs was enacted in 2018 after a previous attempt was vetoed in 2017, and the 2018 legislation categorized parks and recreation programs as license-exempt but subject to certain requirements, and potentially subject to further regulation by the Department of Social Services in the future. The 2018 legislation takes effect July 1, 2019, so HB 2280 merely retains the status quo for supervision of parks and recreation programs by the local governing body. The bill has been reported from committee and is on the House floor.

Significant changes to foster care system moving forward

The Joint Legislative Audit and Review Commission (JLARC) released a report in December 2018 that was critical of local departments of social services as well as the Virginia Department of Social Services (VDSS) in a variety of aspects of the foster care system. Although Virginia removes a relatively low proportion of children from their homes, the report expressed concern about local departments' ability to meet requirements for those children who are placed in foster care, such as monthly caseworker visits and required screenings and services, among other areas where the report found room for improvement. Many of the problems with the system JLARC attributed to high caseloads, an issue related to local departments' struggles to recruit and retain caseworkers.

Omnibus legislation and a series of budget amendments have been introduced to address issues identified in the JLARC report. [SB 1339 \(Reeves\)](#), a bill co-sponsored by the entire Senate, proposes to enact a number of recommendations included in JLARC's report, including:

- Requiring additional staff in VDSS regional offices to provide oversight and assistance to local departments of social services;

- Requiring local boards of social services to report the names of all licensed foster parents to VDSS and to conduct more frequent searches for relatives of children in foster care who might be eligible to serve as kinship foster parents;
- Providing the Commissioner of Social Services with the authority to direct the placement or removal of any child in foster care, as well as the authority to enforce corrective action plans for local boards that fail to provide foster care services in accordance with law or whose actions put children at risk. If a local board fails to comply with the plan, the Commissioner would be authorized to temporarily assume control over the local board's foster care services and associated funds;
- Establishing a caseload standard for foster care caseworkers;
- Directing VDSS to develop a review process to monitor placements in congregate care, as well as a process to review cases in which a child has been in foster care for 24 months or longer.

The Governor's introduced budget included funding for a position to lead the "Virginia Fosters" program to enhance foster parent recruitment, as well as positions to implement new federal legislation related to foster care. A number of budget amendments are also under consideration to provide resources necessary to implement some of JLARC's recommendations, including:

- [Item 339 #2s \(Howell\)](#), which would provide funding for 10 additional regional foster care staff for technical assistance and monitoring and temporary staffing support as needed
- [Item 341 #2s \(Howell\)](#), which would provide \$3.7 million in FY 2020 to establish a caseload standard and assist local departments in meeting the standard
- [Item 344 #7s \(Howell\)](#), which would require VDSS to develop a foster care recruitment and retention strategic plan
- [Item 344 #8s \(Howell\)](#), which would direct VDSS to review all cases of children in congregate care and help local departments to find family placements

In addition to changes sought by state legislators as a result of the JLARC report, the state is also in the process of implementing major changes to the federal Title IV-E program, which historically has provided assistance with maintenance payments for certain children who have been removed from their homes, but was expanded in February 2018 with passage of the Family First Prevention Services Act (FFPSA) to provide new federal resources for prevention services for children who are at risk of removal from their homes. The Administration, the General Assembly, and the judiciary have been working through implementation of FFPSA through the Three Branch Initiative, in which VACo is a participant, along with many other stakeholders. [HB 2014 \(Peace\)](#), [SB 1678 \(Mason\)](#), and [SB 1679 \(Mason\)](#) align Virginia Code with the necessary provisions of federal law to ensure that the state is in compliance with FFPSA.

A key element of FFPSA is the requirement that prevention services be evidence-based and classified as “promising,” “supported,” or “well-supported,” based on a new federal clearinghouse, in order to qualify for federal reimbursement. At least 50 percent of the expenditures reimbursed through FFPSA must be spent on “well-supported” practices beginning in FY 2020. Similarly, FFPSA limits federal maintenance payments for congregate care placements that last longer than two weeks unless the placements are for certain specialized care or are in Qualified Residential Treatment Programs (QRTPs), which must meet certain standards. Ideally, children will be placed with foster families, but for children who need congregate care, if the placements are not QRTPs, CSA may have to absorb the costs that federal maintenance payments would have covered. It is therefore important that Virginia’s provider community is able to offer residential programs that qualify as QRTPs as well as evidence-based prevention services. Assisting providers in attaining the standards necessary to qualify for federal funding was discussed in the Three Branch Finance workgroup, and several budget amendments have been introduced to provide some “seed money” to help enhance provider capacity.

- [Item 344 #1h \(Garrett\)/Item 344 #2s \(Mason\)](#) would provide \$1.6 million GF in FY 2020 for one-time costs associated with FFPSA implementation, to include funding for VDSS to contract with service coordinators to stand up evidence-based prevention services and provide support to providers, such as for training and licensing; [Item 344 #3h\(Garrett\)/Item 344 #4s \(Mason\)](#) would provide approximately \$600,000 GF in FY 2020 to assist providers in offering a particular evidence-based treatment model for treatment foster care.
- [Item 344 #2h \(Garrett\)/Item 344 #3s \(Mason\)](#) would provide \$600,000 GF in FY 2020 to help providers attain certification as QRTPs as QRTPs.

Transportation Steering Committee

General Assembly considers proposals to fund I-81 improvements

As required by legislation in 2018, the Commonwealth Transportation Board (CTB) has prepared the [Interstate 81 Corridor Improvement Plan](#) which identifies \$43 million in immediate operational improvements and \$2 billion in capital expenditures to address significant issues related congestion and safety along this heavily travelled corridor. How to finance these improvements is the more than \$2 billion question.

The Northam administration has proposed new tolls as a revenue source, although some legislators have introduced bills that call for tax increases that are either statewide or limited to the I-81 corridor. Regardless of how the legislature may decide to finance the improvements, any new dedicated revenues to improve the corridor will lessen the demand, and thus the competition, for funding other state, regional and local projects via the Smart Scale process for allocating transportation dollars.

KEY POINTS

- Declining growth in transportation revenues has resulted in a bottleneck of transportation projects competing for limited resources.
- Funding for secondary road needs of counties throughout the Commonwealth has been vastly reduced over the last 10 years.
- Financing improvements to the I-81 Corridor will lessen congestion, improve safety, and free up existing transportation dollars to meet other critical needs across the Commonwealth.

VACo supports additional authority for counties to enforce parking rules

[HB 1818 \(Delaney\)](#) and [SB 1044 \(Black\)](#) grants the same authority to counties of a population of at least 40,000 the same authority cities to contract with uniformed personnel to issue a summons or parking ticket for a violation of the locality's ordinances or regulations regarding the parking, stopping, or standing of vehicles. VACo supports additional authority that would allow localities with parking ordinances the ability to enforce such ordinances using law enforcement, uniformed local employees, or uniformed personnel under contract with the locality.

Both bills have passed their respective chambers. However, SB 1044 was amended in committee to limit all fines under local parking ordinances to \$75. VACo does not support this amendment as there are instances where existing fines for violations of rules such as those for handicapped parking and fire lanes are higher for legitimate public safety reasons. SB 1044 will be heard [House Transportation Subcommittee #2](#) following crossover.

Action Required – Support the introduced version of SB 1044 and contact your House of Delegates members to oppose limit of fines to \$75.

VACo works to preserve local authority over towing

As introduced, VACo **opposed** [HB 1865 \(Fowler\)](#) and [SB 1567 \(Marsden\)](#) as they would have removed local authority to regulate towing. Additionally, the bills would have removed existing provisions in law that places limits on extra charges to the actual towing fee. VACo and other local government representatives worked with proponents of bills so that they were amended in committee. The result is that local authority was left intact and other proposed changes were struck. The amended bills now only affect changes to what towers can charge in localities in Planning District 8 (Northern Virginia) and Planning District 16 (Fredericksburg and surrounding counties). Specifically, it sets limits on what a tow company can charge in these localities: a minimum of \$135, and a maximum of \$150 (this is the existing maximum for the rest of the State). The specific amount charged in each locality (between \$135 and \$150) is to be set by local ordinance.

Abbreviated Schedule of Committee Meetings

Thursday January 31	1/2 hr aft	House General Laws; House Room 3, The Capitol - 1/2 hour after adjournment of House (committee info)
	Upon Adj	Senate Education and Health - Higher Education Subcommittee; Subcommittee Room #3, 5th Floor Pocahontas Building - Immediately upon adjournment of Senate (sub-committee info)
	1/2 hr aft	Senate Agriculture, Conservation and Natural Resources; Senate Room A, Pocahontas Building - 1/2 hour after adjournment (committee info)
	1/2 hr aft	Senate Education and Health - Public Education Subcommittee; Subcommittee Room #2, 5th Floor, Pocahontas Building- 1/2 hour after adjournment of the Senate (sub-committee info)
	1/2 hr aft	House Commerce and Labor; House Committee Room, Pocahontas Building - 1/2 hour after adjournment of House (committee info)
	3 p.m.	Senate Finance - Education Subcommittee; Subcommittee Room #1, 5th Floor, Pocahontas Building (sub-committee info)
	3 p.m.	House Appropriations - Compensation and Retirement Subcommittee; 300-A Subcommittee Room, Pocahontas Building (sub-committee info)
	4 p.m.	House Appropriations - Public Safety Subcommittee; 300-A Subcommittee Room, Pocahontas Building (sub-committee info)
	4 p.m.	House Militia, Police and Public Safety - Subcommittee #1; 400-B Subcommittee Room, Pocahontas Building (sub-committee info)
	5 p.m.	Virginia Legislative Black Caucus; 300-B Subcommittee Room, Pocahontas Building
Friday February 1	8 a.m.	House Counties, Cities and Towns; Shared Committee Room, Pocahontas Building (committee info)
	8:30 a.m.	Senate Rehabilitation and Social Services; Senate Room A, Pocahontas Building (committee info)
	9 a.m.	House Militia, Police and Public Safety; House Committee Room, Pocahontas Building (committee info)

	9:30 a.m.	House Privileges and Elections; House Room 3, The Capitol (committee info)
	1/2 hr bef	Senate Republican Caucus; Senate Room 2, The Capitol - 1/2 hour before session
	1/2 hr bef	Senate Democratic Caucus; Senate Room 1, The Capitol - 1/2 hour before session
	11 a.m.	House Democratic Caucus; House Room 2, The Capitol
	11 a.m.	House Republican Caucus; House Room 1, The Capitol
	1/2 hr aft	House Appropriations; Shared Committee Room, Pocahontas Building - 1/2 hour after adjournment of House (committee info)
	1/2 hr aft	House Courts of Justice; House Room 3, The Capitol - 1/2 hour after adjournment of House (committee info)
	1/2 hr aft	House Courts of Justice - Subcommittee #1; House Room 3, The Capitol - 1/2 hour after adjournment of House (sub-committee info)
	1/2 hr aft	House Courts of Justice - Subcommittee #2; House Room 1, The Capitol - 1/2 hour after adjournment of House (sub-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?ses=191&typ=lnk&val=05

GROUND FLOOR [MAIN STREET]

Main House and Senate Committee Rooms
 HCO - Committee Operations
 House Briefing Room
 Capitol Police Desk

1ST FLOOR [BANK STREET]

Senate Committee Operations
 Capitol Police Desk
 DLAS Bill Room

2ND FLOOR

House Member Offices
 HCO - Post Office
 HCO - Copy & Folding Center
 House Subcommittee Rooms 200 A & B

3RD FLOOR

House Member Offices
 House Subcommittee Rooms 300 A & B

4TH FLOOR

House Member Offices
 House Subcommittee Rooms 400 A, B & C

5TH FLOOR

Senate Member Offices
 Senate Briefing Room
 Senate Subcommittee Rooms 1, 2 & 3
 Division of Legislative Automated Systems [DLAS]

6TH FLOOR

House & Senate Leadership
 Speaker's Conference Room
 Senate Leadership Conference Room
 Senate Member Offices
 Senate Technology
 Senate Support Services
 Senate Post Office

7TH FLOOR

HCO - Support Services

DLAS - Division of Legislative Automated Systems
DLS - Division of Legislative Services
HCO - House Clerk's Office

8TH FLOOR

DIVISION OF LEGISLATIVE SERVICES [DLS]

Director's Office
 Special Projects & Resolutions

DLS STAFF FOR:

- Commerce & Labor
- Courts of Justice
- Education
- Elections
- Health & Social Services
- Judicial Selection
- Militia & Police

9TH FLOOR

DIVISION OF LEGISLATIVE SERVICES

Conference Room
 Computer Mapping & Redistricting
 Editing Staff
 Ethics Council

10TH FLOOR

DIVISION OF LEGISLATIVE SERVICES

Fiscal Office
 Freedom of Information Advisory Council
 Housing Commission
 Joint Commission on Technology & Science

DLS STAFF FOR:

- Agriculture & Natural Resources
- Finance & Taxation
- General Laws
- Local Government
- Transportation

11TH FLOOR

DIVISION OF LEGISLATIVE SERVICES

Chesapeake Bay Commission
 Code Commission
 Commission on Administrative Rules
 Commission on Youth
 Legislative Reference Center

12TH FLOOR

HCO - Information Technology & Telecommunications
 HCO - Human Resources & Finance

13TH FLOOR

House Appropriations Staff
 Chair, House Appropriations
 Vice-Chair, House Appropriations

14TH FLOOR

Senate Finance Committee