

Capitol Contact

Virginia General Assembly

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Monday, February 19, 2018

House Appropriations, Senate Finance Report Budgets

The House Appropriations and Senate Finance Committees reported their respective budgets on Sunday, February 18, and as signaled by passage of two key pieces of legislation last week, the chambers take vastly different approaches to the issue of Medicaid expansion, with the result that the two budgets have very different levels of resources available to support key spending priorities. The House Appropriations budget contains most of the savings generated from drawing down the additional federal dollars associated with expansion, while the Senate Finance budget incorporates none of the assumed savings. Full text of budget amendments proposed by the “money committees” will be available on Tuesday, February 20; the following is a preliminary analysis based on information presented on February 18.

The House Appropriations budget provides for expansion of Medicaid coverage to individuals with incomes up to 138 percent of the federal poverty level, pursuant to the Affordable Care Act, and directs DMAS to pursue a waiver allowing for the implementation of the Training, Education, Employment, and Opportunity Program ([as incorporated in HB 338 \(Miyares\), which passed the House last week](#)), as well as cost-sharing requirements for enrollees and incentives for healthy behaviors. The state’s share of the costs for the expansion would be funded by a provider assessment on private acute care hospitals, as proposed in the introduced budget (the House Appropriations proposal clarifies that the provider assessment will only be used to pay for the state share of coverage for newly-eligible individuals and not for other purposes). The introduced budget assumed savings of approximately \$422 million associated with Medicaid expansion; because the House Appropriations budget assumes that the coverage expansion will be effective January 1, 2019, rather than October 1, 2018, as envisioned in the introduced budget, the House Appropriations budget contains funding to backfill some of the expected savings to Community Services Boards and the Department of Corrections. However, the bulk of the expected savings remain, allowing for priority spending items such as advancing proposed salary increases for teachers, state employees, and state-supported local employees from November 10, 2019 (for

state employees) and December 1, 2019 (for teachers and state-supported local employees) to July 1, 2019.

The Senate Finance Committee did not include Medicaid expansion in its budget, though the substance of the legislation creating the Priority Needs Access Program, an expansion of the existing GAP program ([as set out in SB 915 \(Dunnavant\), which passed the Senate last week](#)) is embedded in the budget as a package of items to be considered for implementation, subject to the appropriation of funds. As a result, the \$422 million in savings assumed in the introduced budget were not available to the Senate Finance Committee in making spending decisions. For example, the Senate Finance budget contains no funding for salary increases, though it directs the Governor to set aside funding for a two percent raise for state employees, state-supported local employees, and teachers, effective July 1, 2019, contingent on revenues meeting the forecast.

While the committee reports on “Budget Sunday” are an important stage in the budget process, they are far from the final word in budget discussions. Each house must approve its budget by Thursday, February 22, after which each chamber will reject the other’s budget and begin the budget conference. VACo will provide a more detailed analysis of the components of each budget soon.

VACo Contact: [Katie Boyle](#)

VACo Opposes Bill Limiting Regulation of Fire Hazard Posed by Mulch

A simple requirement adopted by the City of Harrisonburg to keep “combustible landscape cover material” (i.e. mulch) at least 18 inches from a structure, has prompted a legislative proposal to prevent any locality from adopting common-sense rules to prevent a building from going up in flames due to mulch being too close to a structure. Specifically, [HB 1595 \(Wilt\)](#) and [SB 972 \(Obenshain\)](#), would allow any property to continue to add mulch to an existing landcover, no matter how close to a building, regardless of any local ordinance preventing the addition of such ignition sources in proximity to structures.

In recent years, Harrisonburg and other localities have experienced apartment building fires caused by mulch, too close to a structure, catching fire when a lit cigarette is discarded. Their simple, yet effective solution, to require a separation between the mulch and the building, was recently upheld in a court decision. This bill invalidates the court decision and prevents all localities from adopting such a requirement. It is important to note that the Harrisonburg ordinance does not require removal of any existing mulch, just a prohibition on adding to such within 18 inches of a building. Other non-flammable ground cover options are still available for use.

Action Required – Contact your Legislators to oppose HB 1595 and SB 972. HB 1595 passed the House and will be heard in [Senate Local Government Committee](#) on Tuesday afternoon February 20. SB 972 has been assigned to [House Counties, Cities and Towns Committee](#).

KEY POINTS

- Virginia should continue to allow localities to require a separation between combustible mulch and a building. Such a separation prevents fires and potentially saves lives.
- Other options exist for replacing existing groundcover with non-flammable material.

KEY CONTACTS

Senate Local Government Committee: [Stanley \(Chairman\)](#), [Hanger](#), [Marsden](#), [Favola](#), [Lewis](#), [Surovell](#), [DeSteph](#), [Dunnivant](#), [Chase](#), [Sturtevant](#), [McPike](#), [Carrico](#), [McClellan](#)

House Counties, Cities and Towns Committee: [Ingram \(Chairman\)](#), [Stolle \(Vice Chair\)](#), [Marshall](#), [Poindexter](#), [Morefield](#), [Wilt](#), [Hodges](#), [Webert](#), [Campbell](#), [McGuire](#), [Thomas](#), [Pillion](#), [Herring](#), [Heretick](#), [Boysko](#), [Bell](#), [John J.](#), [Krizek](#), [Mullin](#), [Hayes](#), [Guzman](#), [Reid](#), [Roem](#)

VACo Contact: [Joe Lerch, AICP](#)

Electric Vehicle Charging Bills Continue to Power through House and Senate

[SB 908 \(McClellan\)](#) and [HB 922 \(Bulova\)](#) were introduced to clarify and expand local authority to locate and operate a retail fee-based electric vehicle charging station on locality owned or leased property. Both bills continue to rapidly advance through the House and Senate.

These bills seek to modify 2011 legislation that enabled any “person” to operate such a charging station but left confusion in the ensuing years whether this language encompasses local governments. HB 922 and SB 908 clarify the code, stipulating that any locality, public institution of higher education, or the Department of Conservation and Recreation may install such charging stations. Additionally, the bill exempts these entities from being considered a “public utility” solely because of the sale of electric vehicle charging service or the ownership or operation of an electric vehicle charging station and exempts such service from constituting the retail sale of electricity. Those localities that already

installed these stations will be retroactively authorized via this bill's enabling clause.

VACo strongly supports both bills, speaking in favor of them in committee hearings and working with the patrons to further refine the concept, including drafting amendments that removed the requirement that the use of a charging station on local government property be restricted to employees of the locality and authorized visitors. Under the amended language, localities are still authorized to enact this restriction at their discretion, though it is no longer mandatory.

Senator Jennifer McClellan's bill, SB 908, reported from the Senate Commerce and Labor Committee by a unanimous (14-0) vote and ultimately passed the full Senate unanimously (39-0) on February 9. SB 908 was referred to the House General Laws Committee where it also unanimously reported out (22-0) on February 15. The bill will now be heard on the floor of the House early this week.

Delegate David Bulova's bill, HB 922, reported from the House General Laws Committee unanimously (22-0) and passed the House unanimously (100-0) on February 12 as a part of the Block Vote. HB 922 was referred to the [Senate Transportation Committee](#), though it may end up being rereferred to [Senate Commerce and Labor Committee](#) as that committee previously handled SB 908.

VACo Contact: [Chris McDonald, Esq.](#)

Grievance Bill that would Upend Local Procedures Dies in Subcommittee

[HB 1471 \(Hugo\)](#) has been introduced in some form in six of the last seven General Assembly Sessions. **VACo opposed** this bill that sought to make several changes to local grievance procedures that apply to all localities and local government employees throughout the Commonwealth. Currently, many localities use a hearing officer or existing approved grievance boards or panels. This bill would have eliminated existing hearing panels and officer hearings and revert to a three-member panel at the choice of the grievant. These three-member panels are cumbersome to assemble and often have no experience in conducting such procedures, resulting in delay and inconsistency. In addition, the bill would shift interpretation of whether the relief granted is consistent with local policy from the Chief Administrative Officer of the locality to the Commonwealth's Attorney, who may have no knowledge or experience in employment policy.

The main proponent of this bill in the past has been the Police Benevolent Society, and it is important to note that law enforcement employees have the option to choose either the local grievance process or the grievance process

provided under the Law Enforcement Officers Procedural Guarantee Act. The bill died in a subcommittee of the House Counties Cities and Towns Committee.

VACo Contact: [Phyllis Errico, Esq., CAE](#)

Key Dates for 2018 General Assembly Session

The Joint Rules Committee met on December 18 to adopt the procedural resolution that sets the [schedule](#) for the 2018 General Assembly session. Although the procedural resolution will be considered by the full House and Senate in January, typically it is agreed upon without amendments. Key dates in the procedural resolution are as follows:

- **February 18:** The Senate Finance and House Appropriations Committees must report their respective budgets.
- **February 22:** Deadline for each chamber to complete work on its budget
- **March 5:** Deadline for committee action on legislation
- **March 10:** Scheduled adjournment *sine die*
- **April 18:** Reconvened session to consider the Governor's amendments and vetoes

VACo Contact: [Katie Boyle](#)