

Capitol Contact

Virginia General Assembly

Virginia Association of Counties • 1207 E. Main Street, Suite 300 • Richmond, VA 23219
www.vaco.org • 804.788.6652



Thursday, February 22, 2018

Key Elements of House Appropriations and Senate Finance Committee Budgets

As discussed in Capitol Contact earlier this week, the House Appropriations and Senate Finance Committees reported their budgets on Sunday, February 18. The full text of the budget amendments proposed by the “money committees” was made available on Tuesday, February 20. Below is an analysis of the key elements of the two budget proposals.

The full House and Senate will vote on these budgets on Thursday, February 22; each chamber will then reject the other’s budget and place the two versions in conference, where differences between the two bills will be reconciled.

Medicaid Expansion

House Appropriations: 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 the Department of Medical Assistance Services (DMAS) to pursue a waiver allowing for the implementation of the Training, Education, Employment, and Opportunity Program ([as embodied 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.

Senate Finance: No expansion. Authorization language is removed, as is proposed provider assessment. Expected savings to Community Services Boards and Department of Corrections are backfilled.

K-12 Education

House Appropriations

- Provides \$26 million in General Funds (GF) in FY 2019 and \$36.4 million in FY 2020 to free up lottery funds; redirects \$11.5 million in FY 2019 from proposed “no loss” payment in the introduced budget that would hold harmless localities that would otherwise lose state dollars due to rebenchmarking; appropriates projected increases in lottery funds; directs all of these funds into Supplemental Lottery Per Pupil Allocation to increase that allocation to 40 percent of lottery funds. ([Item 136 #3h](#))
- Removes proposed increase in At-Risk Add-On maximum amount (a reduction of \$7.1 million GF in second year); includes language expanding options for use of funds to include hiring additional school counselors and requiring school divisions to report on use of the funds. ([Item 136 #6h](#), [Item 136 #15h](#))
- Removes \$7.7 million GF in FY 2020 that would fund the state’s share of costs for a full-time principal at each elementary school. ([Item 136 #12h](#))
- Provides \$6.1 million GF in FY 2019 for small school divisions that have experienced a decline of five percent or more in Average Daily Membership between March 2013 and March 2018 ([Item 136 #14h](#))
- Eliminates proposed principal recruitment and retention initiative, capturing \$500,000 in FY 2019 and \$500,000 in FY 2020 ([Item 135 #3h](#))

Senate Finance

- Provides \$300,000 per year for the Commission on the Future of Elementary and Secondary Education. ([Item 30.10 #1s](#))
- Tasks the Joint Subcommittee on Local Government Fiscal Stress with reviewing savings opportunities associated with jointly operating or merging small school divisions; directs the Commission on the Future of Elementary and Secondary Education to recommend a framework for incentives for school divisions to collaborate or consolidate and disincentives for smaller school divisions that do not consolidate or share services with adjacent school divisions. ([Item 1 #4s](#), [Item 136 #14s](#))
- Removes \$7.7 million GF in FY 2020 that would fund the state’s share of costs for a full-time principal at each elementary school. ([Item 136 #1s](#))
- Provides \$5 million GF in FY 2019 for school divisions with less than 10,000 in Average Daily Membership (ADM) that have experienced a ten percent decline in ADM between March 2008 and March 2017. ([Item 136 #2s](#))

- Includes language providing that teacher recruitment programs and incentives are an allowable use of At-Risk Add-On funding (retains the proposed increase to the maximum add-on amount in the introduced budget). ([Item 136 #5s](#))
- Removes costs associated with local school board members from the Standards of Quality cost calculation, saving the state approximately \$2.5 million GF per year. ([Item 136 #8s](#))
- Reduces proposed principal recruitment and retention fund by \$200,000 in FY 2019 and \$200,000 in FY 2020. ([Item 135 #9s](#))

Compensation

House Appropriations

- Provides \$37 million GF in FY 2020 to accelerate proposed two percent salary increase for state employees and state-supported local employees to June 10, 2019, and July 1, 2019, respectively (rather than November 10, 2019, and December 1, 2019, respectively, as in the introduced budget). Provides \$36.3 million GF in FY 2020 to advance the proposed two percent salary increase for SOQ-recognized instructional and support positions from December 1, 2019, to July 1, 2019. ([Item 474 #3h](#), [Item 136 #8h](#))
- Provides \$1.1 million GF in FY 2019 and \$3.4 million GF in FY 2020 for a \$1000 salary increase for sworn deputy sheriffs in localities where the sheriff has primary law enforcement responsibility. ([Item 66 #1h](#))
- Authorizes a two percent merit bonus for state employees on December 1, 2018, contingent on FY 2018 revenue surpluses and unspent GF appropriations totaling at least \$32.8 million. ([Item 474 #1h](#))

Senate Finance

- Does not include funding for salary increases. ([Item 136 #6s](#) removes proposed 2 percent salary increase for SOQ-recognized instructional and support positions; [Item 474 #1s](#) removes funding for two percent salary increase for state employees, state-supported local employees)
- Includes language directing the Governor to include funding in the next introduced budget to offset any downward revenue revision; if no revenue reforecast is required after the close of FY 2018, the funds are to be used for a two percent salary increase for state employees, state-supported local employees, and SOQ-recognized instructional and support positions, effective July 1, 2019. ([Item 474 #2s](#))

Economic Development

House Appropriations

- Creates the position of Commonwealth Chief Broadband Advisor within the Office of the Secretary of Commerce and Trade (companion to [HB 1583](#)). ([Item 102 #1h](#))
- Increases funding for the Virginia Growth and Opportunity initiative (GO Virginia) by \$15 million over the biennium. ([Item 106 #2h](#))
- Increases funding by \$5 million over the biennium for VEDP for marketing and business-ready site development initiatives. ([Item 122 #1h](#))

Senate Finance

- Directs the Secretary of Commerce and Trade to conduct a comprehensive examination of the state's economic development system. ([Item 102 #1s](#))
- Directs that localities with high fiscal stress be given priority in awarding certain economic development incentive funds. ([Item 103 #3s](#))
- Directs the Secretary of Commerce and Trade, in conjunction with the Center for Rural Virginia, to prepare a list of jurisdictions to be submitted to the Governor as nominees for designation as a "Qualified Opportunity Zone" under the federal Tax Cuts and Jobs Act. ([Item 105 #1s in SB 29](#), the "caboose" budget)
- Increases funding for rural broadband deployment by allocating an additional \$4 million over the biennium to the [Virginia Telecommunication Initiative \(VATI\)](#) administered by DHCD. ([Item 106 #6s](#))
- Increases Enterprise Zone funds by \$685,533 GF per year. ([Item 107 #1s](#))
- Reduces proposed custom workforce recruitment and training incentive program by \$1.1 million GF in FY 2020. ([Item 122 #2s](#))

Virginia Grocery Investment Fund

House Appropriations: Deletes language in the introduced budget establishing the Virginia Grocery Investment Fund and eliminates the associated funding. ([Item 106 #1h](#))

Senate Finance: Reduces funding by \$2.5 million GF per year, retaining \$1.25 million GF per year. ([Item 106 #1s](#))

Children’s Services Act (CSA)

House Appropriations

- Includes language directing the Office of Children’s Services to work with affected state agencies to transform CSA-funded services to “emphasize community services that are evidence-based and trauma-informed.” ([Item 282 #1h](#))

Senate Finance

- Directs the workgroup examining private day placements to make recommendations by December 15, 2018. ([Item 1 #7s](#))
- Places a two percent per year cap on growth in rates paid by localities to private day special education providers. ([Item 282 #1s](#))
- Allows CSA funds to be used to support services for children transferring from a private day placement to a public school special education program in a school division within Planning District 16. ([Item 282 #2s](#))
- Directs the Office of Children’s Services, in coordination with the Department of Education, to facilitate a workgroup to develop outcome measures to assess students’ progress in private special education day placements. ([Item 282 #3s](#))

Mental Health

House Appropriations

- Provides \$900,000 GF in FY 2019 and \$1.8 million GF in FY 2020 to establish Crisis Intervention assessment centers in six rural communities (a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century). ([Item 312 #1h](#))

Senate Finance

- Reduces GF appropriation for mental health dockets by \$250,000 per year. ([Item 38 #2s](#))
- Provides \$2.5 million in FY 2019 and \$4.5 million in FY 2020 for alternative transportation for adults and children subject to temporary detention orders, to be phased in over a three-year period (a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century). ([Item 311 #1s](#))
- Provides \$658,000 GF per year for Crisis Intervention Team training in six rural communities (a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century). ([Item 312 #3s](#))

- Provides \$1.1 million GF per year for the Appalachian Telemental Health Initiative (a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century). ([Item 312 #4s](#))
- Reduces \$3.7 million GF per year for primary care outpatient screening at CSBs. ([Item 312 #9s](#))
- Directs the Department of Behavioral Health and Developmental Services and DMAS to evaluate options to develop a supportive housing program for Medicaid-eligible “super-utilizers,” pregnant women, and mothers with substance use disorder or mental illness. ([Item 312 #11s](#))

Early Childhood

House Appropriations

- Provides \$275,000 GF per year for the Department of Education (DOE) to implement statewide assessment of kindergarten students with the Virginia Kindergarten Readiness Program instrument; results are to be used to determine how well the Virginia Preschool Initiative (VPI) promotes school readiness in key developmental areas. ([Item 128 #1h](#))
- Provides \$75,000 GF in FY 2019 and directs DOE to develop a plan to ensure that VPI instruction is of high quality, including how VDOE will monitor the quality of teacher-child interactions and ensure the use of evidence-based curricula. ([Item 136 #4h](#))
- Provides \$350,000 GF per year for observation and assessment of VPI classrooms. ([Item 136 #5h](#))
- Provides \$300,000 GF in FY 2019 and \$700,000 GF in FY 2020 to provide professional development to VPI teachers. ([Item 136 #11h](#))
- Specifies how school divisions that have used all of their allocated VPI slots may request additional slots and which criteria must be used for the reallocated slots. ([Item 136 #13h](#))
- Requires the Virginia Department of Social Services to develop, publish, and maintain information on curricula and professional development for child care professionals participating in the child care subsidy program (a recommendation in a recent JLARC study of early childhood programs in Virginia). ([Item 340 #2h](#))
- Provides \$250,000 in FY 2019 and \$600,000 in FY 2020 from the Temporary Assistance to Needs Families block grant for Early Impact Virginia for voluntary home visiting programs. ([Item 340 #3h](#))

- Appropriates \$925,000 In FY 2019 and \$325,000 in FY 2020 from the federal Child Care and Development Block Grant for a pilot program to improve early childhood classrooms in faith-based and private child care centers, to include assessment of participating children’s kindergarten readiness. ([Item 340 #4h](#))

Senate Finance

- Adds several topics of study to the scope of the Joint Subcommittee on the Virginia Preschool Initiative. ([Item 1 #1s](#))
- Directs DOE, the Department of Health, the Virginia Department of Social Services, and the Department of Planning and Budget to convene a workgroup to examine opportunities to leverage early childhood funds, with the goal of identifying strategies for developing an integrated early childhood fund. ([Item 128 #2s](#))
- Provides \$4.6 million GF per year to increase the VPI per-pupil amount from \$6,125 to \$6,500 for full-day programs and from \$3,062 to \$3,250 for half-day programs; also provides that each school division will receive at least nine VPI slots. The increased per-pupil amount will require a local match, which is determined in accordance with the Local Composite Index, with a cap of 0.5000. ([Item 136 #10s](#))
- Provides \$250,000 GF per year for DOE to conduct observations in VPI classrooms. ([Item 136 #11s](#))
- Allows for a limited waiver of the requirement for a VPI teacher to hold a bachelor’s degree. ([Item 136 #12s](#))
- Provides that philanthropy or other private funds may be part of the required local match for VPI. ([Item 136 #13s](#))
- Requires the Virginia Department of Health to evaluate the development of a home visiting Pay-for-Success pilot program, the Department may apply and implement a pilot program if federal funding is available. ([Item 297 #2s](#))

Water Quality

House Appropriations

- No provisions for Stormwater Local Assistance Fund. (SLAF)
- Appropriates \$1.35 million NGF per year to the Marine Resources Commission for boating and related recreational waterway improvements, including grants to local governments to support dredging projects. ([Item 370 #1h](#), [Item 377 #2h](#))

- Provides \$500,000 GF in FY 2019 and \$500,000 GF in FY 2020 to the Marine Resources Commission for oyster replenishment and restoration. ([Item 376 #1h](#))

Senate Finance

- Provides \$20 million in bond proceeds for SLAF in FY 2019. ([Item C-45 #1s](#))
- Provides \$2.6 million GF in FY 2019 and \$2.6 million GF in FY 2020 to the Water Quality Improvement Fund (WQIF). This amendment increases the amount of un-refunded marine fuel sales tax revenues that are transferred to the General Fund for improvement of the Chesapeake Bay and its tributaries. ([Item 362 #2s](#))

Environment and Natural Resources

House Appropriations

- Removes \$250,000 GF each year for two environmental education FTEs. ([Item 128 #2h](#))
- Provides \$131,600 in FY 2019 and \$131,600 in FY 2020 for Potomac Aquifer Recharge Monitoring (HB 771). ([Item 295 #1h](#))
- Provides \$120,000 GF in FY 2019 for land acquisition for New River State Park. ([Item 363 #4h](#))
- Provides \$125,000 GF in FY 2019 for maintenance for Breaks Interstate Park Dam. ([Item 363 #5h](#))

Senate Finance

- Provides \$965,310 GF in FY 2019 and \$590,944 GF in FY 2020 for state park management and operational costs for Phase I of the Widewater State Park in Stafford County. ([Item 363 #2s](#))
- Provides \$167,548 GF in FY 2019 and \$198,752 GF in FY 2020 for staffing and operations costs to support the limited opening of Seven Bends State Park. ([Item 363 #4s](#))

Jails

House Appropriations

- Provides funding associated with implementing the recommendations of a 2017 study on streamlining eligibility determination and enrollment of incarcerated individuals in Medicaid. VACo worked with a coalition of stakeholders on this package of amendments, which will facilitate coverage of eligible inmates'

inpatient hospital stays by Medicaid. ([Item 73 #1h](#), [Item 307 #1h](#), [Item 391 #3h](#), [Item 413 #1h](#))

- Adds the Henry County jail to the list of projects authorized for reimbursement from the state. ([Item 279 #1h](#))
- Includes language directing the Department of Corrections to evaluate options to reduce the number of state-responsible inmates with serious mental illness who serve the entirety of their sentences in local and regional jails. ([Item 391 #2h](#))

Senate Finance

- Adds the Henry County jail to the list of projects authorized for reimbursement from the state. ([Item 279 #1s](#))
- Provides \$1.6 million GF per year for Community Services Boards to provide discharge planning at two jails with a high percentage of inmates with serious mental illness (a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century). ([Item 312 #1s](#))
- Provides \$709,000 GF per year for jail diversion program in up to three rural communities (a recommendation of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century). ([Item 312 #2s](#))

HB 599

House Appropriations: Retains funding levels in introduced budget (\$6.6 million in FY 2019 and \$13.8 million in FY 2020).

Senate Finance: Reduces funding in FY 2020 by \$7.2 million relative to introduced budget (resulting in \$6.6 million per year). ([Item 397 #1s](#))

Juvenile Justice

House Appropriations: Rescinds authorization for construction of new juvenile correctional center in Chesapeake (approved in 2016) and provides instead for a 156-bed facility in Powhatan County. Language makes implementation of juvenile justice transformation plan, which is aimed at using data-based decision-making to improve outcomes for juveniles and reduce the number of youth housed in juvenile correctional centers, contingent upon passage of authorization for Powhatan County capital project. ([Item C-47 #1h](#), [Item 412 #1h](#))

Senate Finance: Authorizes construction of new 96-bed juvenile correctional center on current Bon Air campus and revises authorization for juvenile correctional facility in Chesapeake to reflect authorization for a 60-bed facility in Isle of Wight County. Language provides that this project will only move to construction if Isle of Wight County provides the land and pays for the water and sewer connections at the site. ([Item C-45 #1s](#), [Item C-47 #1s](#))

Body-Worn Cameras

House Appropriations: Includes language requiring localities that opt for local law enforcement officers to use body-worn cameras to provide the local Commonwealth's Attorney with additional staff using local funds to accommodate the workload. Affected Commonwealth's Attorneys are to provide information to the State Compensation Board on the additional staffing and funding provided by localities. ([Item 70 #2h](#))

Senate Finance: Includes language requiring localities that opt for local law enforcement officers to use body-worn cameras to fund positions in Commonwealth's Attorneys' offices with local funds at a rate of one Assistant Commonwealth's Attorney per 50 body-worn cameras. ([Item 70 #1s](#))

Transportation

House Appropriations

Eliminates a proposed \$110 million bond authorization for transit capital improvements from the introduced budget and directs DRPT to investigate options to establish a Master Equipment Leasing Program (MELP) program which could serve as a revolving fund for the same purpose. ([Item 445 #2h](#))

Senate Finance

Eliminates a proposed \$110 million bond authorization for transit capital improvements from the introduced budget. ([Item 445 #1s](#))

Revenue Cash Reserve

The introduced budget provides for a total of \$427.1 million deposited by the end of biennium, including a deposit in FY 2018. (\$121.4 million in FY 2018, \$50 million in FY 2019, \$221 million in FY 2020)

House Appropriations: Reduces proposed deposit to \$45.5 million GF per year, for a total deposit of \$247.4 million by the end of the biennium; sets out a plan to have deposits reach two percent of GF revenues by FY 2024. ([Item 266 #1h](#))

Senate Finance: Reduces proposed deposit to \$45 million in FY 2019 and \$135 million in FY 2020, for a total deposit of \$336.4 million by the end of the biennium. ([Item 266 #1s](#))

Communications Sales and Use Tax

House Appropriations: No proposed changes to Communications Sales and Use Tax Trust Fund allocation.

Senate Finance: Diverts \$2 million per year in expected savings from the telecommunications relay contract (which is funded by Communications Sales and Use Tax Trust Fund revenues) to the General Fund. ([Item 3-1.01 #1s](#))

Tobacco Taxes

House Appropriations: No provisions.

Senate Finance: Directs the Joint Subcommittee to Evaluate Tax Preferences to study options for modernizing tobacco taxes to account for non-combustible tobacco products as well as tobacco tax reforms that will “provide fairness and equity for all local governments.” ([Item 3-5.16 #3s](#))

VACo Contacts: [Katie Boyle](#), [Joe Lerch, AICP](#), [Chris McDonald, Esq.](#) and [Khaki LaRiviere](#)

Wireless Bills Gutting Local Authority Over Land Use and Public Rights-of-Way Face Critical Votes Next Week

Take action now against two proposals by the wireless industry that will be voted on the floor early next week.

Oppose gutting of local authority to address siting of wireless towers

The first bad measure, [HB 1258 \(Kilgore\)](#) and [SB 405 \(McDougle\)](#), guts local zoning authority to address the siting of wireless towers. Specifically, they allow wireless companies to place cell towers up to 50 feet tall within rights-of-way without local control. Additionally, for towers of greater height, the bill hamstring localities’ ability to obtain information and address citizen concerns through the public hearing process. HB 1258 passed by a vote of 56 to 41 and will be heard in [Senate Commerce & Labor Committee](#) on Monday, February 26. SB 405 passed by a vote of 22 to 13 and will likely be heard in [House Commerce & Labor Committee](#) on Tuesday, February 27.

ACTION REQUIRED - Contact your legislators now to oppose this gutting of local authority to address the siting of wireless towers.

KEY POINTS

- This legislation will not expand wireless service to rural and underserved areas as there is no requirement to build or provide service in these areas.
- This measure allows a wireless structure up to 50 feet in height to be placed within rights-of-way without local control.
- These provisions remove the ability of our citizens to have meaningful input over the character of their communities. Local zoning recognizes the importance of citizen input.

KEY CONTACTS

[General Assembly Members](#)

Oppose capping of local charges for use of public right-of-way

The second bad proposal, [HB 1427 \(Kilgore\)](#) and [SB 823 \(McDougle\)](#), sets a limit on what VDOT and localities may charge for the use of publicly owned rights-of-way by the wireless industry for the placement of poles and towers. HB 1427 passed by a vote of 83 to 14 and has been referred to [Senate Finance Committee](#). After barely surviving by a [vote of 19 to 18](#) on the Senate floor, SB 823 will likely face a House floor vote as early as Monday, February 26.

ACTION REQUIRED - Contact your legislators now to oppose this giveaway of publicly-owned property to a private entity.

KEY POINTS

- Virginia's roads and highways are publicly-owned assets whose value has been enhanced through significant investments in construction and maintenance.
- Local elected bodies are empowered to negotiate, through contract, with private entities for the use of publicly-owned land.
- The state should not usurp local authority in the management of locality owned assets

KEY CONTACTS

[General Assembly Members](#)

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

Support Needed for Legislation Allowing Consolidated Meals Tax/Bond Referendum Question

[HB 1390 \(Aird\)](#) has been referred to the [Senate Finance Committee](#) and is expected to be heard next week. The bill applies to an instance in which a county seeks to pay for debt-funded projects with revenues derived from a meals tax, and permits the county to put before the voters a consolidated question on the implementation of the meals tax and the issuance of debt to be supported with meals tax revenues, rather than asking two separate questions, as is currently set out in Code. This change would avoid a situation in which voters approve debt, but not the revenues to be used to support the debt, by allowing the county to make the issuance of debt contingent on the approval of the intended revenue source.

ACTION REQUIRED – Please call [Senate Finance Committee](#) members in support of HB 1390.

KEY POINTS

- This bill does not change the requirement for a county meals tax to be approved by a referendum. It merely allows proposed projects and revenues to be put before the voters in one question rather than separately.
- This change would avoid a situation in which voters approve debt but not the revenues to be used to pay for the debt, as has happened several times in the recent past.

KEY CONTACTS

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

VACo Contact: [Katie Boyle](#)

Call Now to Oppose Mandating Use Value Taxation for Certain Properties

[HB 1204 \(Hugo\)](#) is a problematic bill that would require certain property be assessed based on use value rather than fair market value in certain localities meeting specified population growth criteria (Arlington County and Loudoun County). The bill would require that real property of at least five acres that is devoted to open space be assessed based on the property's land use value.

VACo opposes this legislation. Although the legislation applies to a limited number of localities now, it sets a worrisome future precedent by requiring a locality to assess property as if it were part of a local program of use value taxation, regardless of whether the locality has adopted use value taxation. Adopting use value taxation is a local option under current Code. This bill would supersede that local authority and direct that certain property be afforded preferential tax treatment.

HB 1204 was prompted by a dispute between two golf courses and Arlington County over the assessments of their properties. The General Assembly has enacted a process for property owners to appeal assessments. This bill would interpose the General Assembly in this existing process for resolution of disputes about the valuation of property.

ACTION REQUIRED – HB 1204 has been referred to the [Senate Finance Committee](#). Please contact committee members and express opposition to this legislation. **The bill will likely be heard on Tuesday, February 27.**

KEY POINTS

- Adopting land use value taxation should be a local decision, not a mandate by the General Assembly. This bill sets a bad precedent by interjecting the state into decisions about local land use and tax policy.
- A process for appealing assessments is already in place. Taxpayers may appeal to the local assessor or Commissioner of the Revenue, the local Board of Equalization, and Circuit Court.
- The bill has some potential unintended consequences for school funding. True value of real estate is a major component in the Local Composite Index (LCI). By declaring that the lower value of the land being assessed as open space in accordance with the bill is the “fair market value,” the affected locality’s true value of real estate would be lower than it would have been had the property been assessed at traditional fair market value (the highest and best use of the property). Affected localities would then appear to have a lower ability to pay school funding costs, which would lower their LCIs, drawing down additional state dollars. Since the LCI measures local ability-to-pay on a relative basis, lower LCIs for some localities mean higher LCIs (and fewer state dollars) for others.

KEY CONTACTS

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

VACo Contact: [Katie Boyle](#)

Delegate Hodges’s Stormwater Workgroup Bills Head to Governor’s Desk

[HB 1307 \(Hodges\)](#) and [HB 1308 \(Hodges\)](#) were unanimously passed by the Senate on February 20 by votes of 40-0. Having previously passed the House of Delegates on February 6, these two bills now head to the Governor’s desk for signing. The bills, drafted upon the recommendations of the HB 1774 Workgroup (named after Delegate Keith Hodges’s [2017 legislation](#) that led to its creation), seek to address rural Tidewater localities’ concerns regarding the administration of stormwater regulations for land disturbances of 2,500 square feet to one acre

and to find alternative means for treating and using stormwater in the applicable localities.

HB 1307 allows any rural Tidewater locality, as defined in the bill, to comply with water quantity technical criteria for certain land-disturbing activities through a tier-based approach that is based on the percentage of impervious cover in the watershed. HB 1308 authorizes a rural Tidewater locality, whether or not it has opted out of administering a stormwater or erosion and sediment control program, to require that a licensed professional retained by the applicant submit a set of plans and supporting calculations for land-disturbing activities that disturb 2,500 square feet or more but less than one acre of land.” Such plans, signed and sealed by the professional, shall be accepted by the locality in satisfaction of the local plan review requirement.

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

Cooperative Procurement/Solar PPA Bill Carried Over to 2019

Senator John Edwards’ cooperative procurement/solar power purchase agreements (PPA’s) bill, [SB 312 \(Edwards\)](#), was carried over to 2019 at the request of the patron.

Generally speaking, the bill seeks to take solar PPAs out of the cooperative procurement process in order to streamline and expedite solar deployment in localities. More specifically, SB 31 does the following:

- Provides that construction performed in creating a good or service pursuant to a solar services agreement, solar power purchase agreement, or solar self-generation agreement shall not be defined as construction, notwithstanding any reference to "construction" in a request for proposal for a solar services agreement, solar power purchase agreement, or solar self-generation agreement;
- Provides that professional services performed in creating a good or service pursuant to a solar services agreement, solar power purchase agreement, or solar self-generation agreement shall not be defined as a professional service, notwithstanding any reference to "professional services" in a request for proposal for a solar services agreement, solar power purchase agreement, or solar self-generation agreement;
- Authorizes any contracting entity to purchase services under a solar services agreement, solar power purchase agreement, or solar self-generation agreement entered into by another contracting entity, even if it

did not participate in the request for proposals, if the request for proposals specified that the procurement was being conducted on behalf of other contracting entities; and

- Specifies that project agreements for power purchase agreements that reference a master solar power purchase agreement, whether or not the master power purchase agreement is still in effect, shall be binding and effective stand-alone agreements for as long as the life of the project agreements, and may be used by a contracting entity to purchase services under a cooperative procurement agreement.

SB 312 originally reported out of the Senate General Laws and Technology Committee and eventually passed the full Senate with amendments on February 13, after which it was referred to the House General Laws Committee. Concerns arose, however, as the bill, as amended, seemingly would impair and potentially nullify existing contracts between power providers and local governments, school systems, authorities, and other government entities. Acknowledging the seriousness of these concerns, the lack of an immediate fix to the legislation, and the short timeframe with which the bill could be effectively dealt with, Senator Edwards graciously agreed to carry the bill over to 2019 and re-examine this issue in the coming months.

VACo is eager to continue to work with Senator Edwards and concerned stakeholders in advance of the next legislative session to find a way to successfully address solar PPA's and cooperative procurement.

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

Problematic Public Comment and FOIA Penalty Bills Falter in Subcommittee

VACo opposed [SB 336 \(Peake\)](#), which required that every elected public body afford an opportunity for public comment during any open meeting. This bill would require all advisory work groups or other committees formed by local boards to take public comment at all open meetings including work sessions. VACo explained to House General Laws Committee' Subcommittee #4 members that there are numerous opportunities for public participation though the many public hearings held by elected boards. The subcommittee is recommending the bill be carried over and go to the Freedom of Information Advisory Council for further study.

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

Bulova Stormwater Bills Pass Both Chambers, Await Signature from Governor Northam

Two stormwater bills patroned by Delegate David Bulova have now passed both the House and Senate and will now be sent to Governor Ralph Northam for signing.

[HB 377 \(Bulova\)](#) eliminates the requirement to obtain a Virginia Water Protection Permit from the Department of Environmental Quality (DEQ) when modifying stormwater management facilities that was created on dry land for the purpose of conveying, treating, or storing stormwater.

[HB 925 \(Bulova\)](#) seeks to make several critical technical amendments to remedy recent stormwater regulatory changes. Specifically, the bill authorizes any locality that owns or operates a permitted municipal separate storm sewer system (MS4) to adopt and administer an industrial and high-risk runoff program. HB 925 limits the ability of the State Water Control Board to impose certain regulatory conditions on any locality that administers such a program (unless it is required to do so by federal law) and prohibits the Board from modifying existing MS4 permits to avoid such limitation. HB 925 also authorizes the Board to require a locality to report an industrial or commercial facility if it becomes aware of a violation of an industrial stormwater management requirement.

VACo, along with an array of other stakeholders including the Virginia Municipal League and the Virginia Municipal Stormwater Association, supported HB 377 and HB 925 throughout this legislative session.

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

Electric Vehicle Charging Bill Passes Both Chambers

After passing the Senate, Senator Jennifer McClellan's fee-based electric vehicle charging bill cleared the House on February 20 by a 99-0 vote. [SB 908 \(McClellan\)](#) clarifies and expands local authority to locate and operate a retail fee-based electric vehicle charging station on locality owned or leased property.

[HB 922 \(Bulova\)](#), Delegate David Bulova's companion bill, passed the House 100-0 and was referred to the [Senate Transportation Committee](#), which docketed the bill for February 21 but ended up referring it to [Senate Commerce and Labor Committee](#) (which initially heard and reported Senator McClellan's bill). HB 922 will likely be placed on the Committee's February 26 agenda.

VACo has been pleased to work with Delegate Bulova and Senator McClellan on this initiative and support both bills during their journey through the General Assembly.

For more information on these two bills, please see our [February 19 edition of Capitol Contact](#).

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

Added Penalties for Violations of FOIA

[SB 630 \(Surovell\)](#) 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 the official intentionally altered or destroyed the records prior to the expiration of the applicable record retention period pursuant to the Virginia Public Records Act, that the court shall impose a civil penalty against the public official in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded.

In addition, this 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.

VACo opposed this bill, which was recommended to be carried over to 2019 and sent to the FOIA council for further study.

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

Bill to Authorize Tree Planting/Replacement Ordinances in Chesapeake Bay Watershed Reports Out

[HB 494 \(Hodges\)](#) reported out of the Senate Local Government Committee unanimously (13-0) on February 20 and will now be heard on the Senate floor later this week. HB 494 previously passed the House on January 25.

The bill authorizes any locality within the Chesapeake Bay watershed to adopt an ordinance providing for the planting and replacement of trees during the

development process. Tree planting and replacement constitutes an effective means of sediment runoff control and water quality improvement. Currently, only localities with a population density of 75 person per square mile are authorized to adopt such ordinances. HB 494 expands this authorization to any locality in the Chesapeake Bay watershed, regardless of population density.

VACo, along with representatives from the Rappahannock River Basin Commission (who initiated the legislation) and the Chesapeake Bay Foundation, spoke in favor of the bill to the Committee.

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

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](#)