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

Wednesday, March 14, 2018

General Assembly Adjourns Regular Session Without Adopting Budget; Special Session to Convene April 11

The General Assembly adjourned the 2018 regular session *sine die* on March 10 without completing work on the 2018-2020 biennium budget and the FY 2018 "caboose" budget, a result that was set in motion on Thursday, March 8, when budget conferees announced that they had reached an impasse over the issue of Medicaid expansion. The budget passed by the House during the regular session provides for the expansion of Medicaid for individuals with incomes up to 138 percent of the federal poverty level, as envisioned in the Affordable Care Act, and directs the state Department of Medical Assistance Services to apply for a waiver to implement work requirements included in the proposed Training, Education, Employment, and Opportunity Program, as well as cost-sharing requirements and incentives for healthy behaviors. The Senate budget opts against expansion. As a result, the House budget contains savings generated from drawing down the additional federal dollars associated with expansion, while the Senate budget incorporates none of these savings; consequently, the two budgets have very different levels of resources available to support key spending priorities of importance to local governments.

The House and Senate passed separate resolutions laying the procedural groundwork for a special session on the budget, but since the same resolution was not agreed to by both bodies, the legislature adjourned on March 10 without a set date for a special session, but with the expectation that the Governor would exercise his authority to summon members back later this spring. The Governor fulfilled this expectation within days of the regular session adjournment, issuing a proclamation on March 13 calling for a special session to convene April 11.

In the intervening weeks, the Governor will be reviewing legislation that passed during the session and signing bills into law, proposing amendments, or vetoing legislation in advance of his deadline of midnight on April 9 to act on legislation that passed the General Assembly in the latter part of the session. (Bills that passed the legislature more than a week before its scheduled adjournment were required to be acted upon within seven days of being transmitted to the Governor.) The Governor's amendments and vetoes will be considered by the General Assembly at the April 18 Reconvened Session.

VACo has requested vetoes of legislation that would limit local authority over the siting of wireless cell towers and cap the amounts that could be charged for use of public rights-of-way. VACo has also requested that the Governor veto HB 1204, which would set a troubling precedent of state intervention in local disputes over the assessment of property. VACo appreciates the efforts of members who have contacted legislators and the Governor's office regarding these bills.

The Governor will also be preparing a new budget for consideration during the special session. As was the case during the preparation of Governor McAuliffe's introduced budget, VACo will be communicating with Governor Northam's office to advocate for the inclusion of key county priorities in the new introduced budget, such as funding for K-12 education, public safety, and mental health. VACo is hopeful that budget negotiations will be resolved expeditiously, as adopting local budgets for the upcoming fiscal year without knowing what resources will be available from the state will be challenging for localities. VACo will provide an analysis of the new introduced budget as soon as possible and will keep members informed as budget deliberations continue. VACo thanks members who contacted legislators about provisions of the House and Senate budget proposals, as elements of these proposals may remain under consideration in the special session.

VACo Contact: Katie Boyle

Calls Needed to Request Veto of Legislation Mandating Land Use Valuation

HB 1204 (Hugo) would require that 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). As passed by the General Assembly, the bill would require that real property of at least 20 acres that is devoted to open space be assessed based on the property's land use value.

VACo opposes this legislation and has requested that Governor Ralph Northam veto the bill. Although the bill 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 mandate 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 –Please call or email the Governor's office and ask for a veto of this legislation. A link to send an email to Governor Northam is here. The telephone number is 804.786.2211.

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, especially if more property owners in other localities seek similar intervention from the General Assembly in the future. 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.

- Similarly, by declaring that the lower value of the land being assessed as open space is "fair market value," the bill would appear to preclude the collection of "rollback" taxes in the event that affected properties were converted to another use (for example, being sold for development). Ordinarily, property that is part of a program of land use value taxation is subject to five years' worth of rollback taxes (the difference between the taxes that would have been

levied on the fair market value and the taxes collected on the lower assessed value) when the property no longer qualifies for land use assessment.

KEY CONTACTS

Contact Governor Ralph Northam's Office

VACo Contact: Katie Boyle

VACo requests Veto of Wireless Bills

Please contact Governor Ralph Northam's office as soon as possible to ask the Governor to veto HB 1258 and SB 405, and HB 1427 and SB 823.

HB 1258 and SB 405 gut 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 hamstrings localities' ability to obtain information and address citizen concerns through the public hearing process.

ACTION REQUIRED – A link to send an email to Governor Northam is here. The telephone number is 804.786.2211.

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.

HB1427 and SB823 set a limit on what Virginia Department of Transportation (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. VDOT negotiated with the wireless industry on this legislation, but VACo was not at the table and did not agree to these bills. Statewide fees will not reflect the true value of the use of the public rights-of-way.

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

Contact Governor Ralph Northam's Office

VACo Contact: Joe Lerch, AICP

Solar tax exemption bill awaits Governor's signature

SB 902 (Lucas) successfully ended its journey through the General Assembly and now awaits signing by Governor Ralph Northam.

The bill limits local tax exemptions for solar equipment and facilities and provides local options for additional tax exemptions. Under current law, solar facilities greater than 20 megawatts (MW) in generation capacity are provided a mandatory 80 percent exemption from local taxes. SB 902 caps this mandatory exemption at facilities of less than 150 MW and enables localities to provide, at their discretion, exemptions for facilities of 150 MW or greater.

Several amendments were introduced throughout this bill's journey, most importantly one that raised the proposed cap from 100 MW (as initially introduced) to 150 MW. Additional language was later introduced seeking to clarify the definition of "solar facility" and address the question of how adjacent properties would be considered under the law. Ultimately, the amendment raising the maximum size was agreed to while the attempt at clarifying language was scrapped.

In its final form, SB 902 passed the House of Delegates, 84-13-1 and the Senate, 35-2. Since the bill was not acted upon before the General Assembly's March 10 adjournment, the Governor will now have until April 9 to act on the bill.

VACo was pleased to work with Senator Louise Lucas to craft this legislation and was proud to support it throughout this session.

VACo Contact: Chris McDonald, Esq. and Joe Lerch, AICP

Bill to fund Metro does not include new capital funds for other transit systems

On the last day of session, conferees for HB 1539 (Hugo) and SB 856 (Saslaw) agreed on $154 million in dedicated annual dollars for Virginia's portion to shore up the Metro bus and rail system (under the control of the Washington Metropolitan Area Transit Authority - WMATA) that serves the D.C. metropolitan area. The original version of SB 856 included $110 million in annual bond funds for all transit systems in the Commonwealth. However, concerns about the Commonwealth's diminishing debt capacity resulted in this provision being stripped from the final compromise between House and Senate negotiators.

The final compromise also included an overhaul of the administration and disbursement of funds in the Commonwealth Mass Transit Fund. Specifically, 53.5 percent of the restructured fund will go towards Metro, with the remaining amounts going towards all other transit systems for operating, capital, and special projects. Additionally, beginning July 1, 2019, all transit operating and capital funds (except for Metro) will be disbursed according to new prioritization processes and formulas to be developed by the Commonwealth Transportation Board (CTB).

This means that revised applications to include the new prioritization of funds will be drafted over the Spring and Summer, for the CTB to approve in the Fall. VACo will be monitoring this process and will alert members for opportunities to provide input on drafts of the new application process to include prioritization of funds.

The agreement to provide a separate, reliable and permanent source of funds for the Metro system is a significant step. However, the Virginia Department of Rail and Public Transportation (DRPT) has identified an average revenue gap of $130 million annually (beginning fiscal year 2020) over the next ten years for all other transit capital needs across the Commonwealth.

While the development of the prioritization of all statewide operating and capital transit funds will provide a measure of assurance to state legislators that systems are running efficiently, the General Assembly must still resolve how to maintain existing funding levels for transit. Without it Virginia faces a congestion and mobility crisis with implications for economic growth, public safety and quality of life.

VACo Contact: Joe Lerch, AICP

Legislation allowing consolidated meals tax and bond referendum questions approved by General Assembly

HB 1390 (Aird) passed the General Assembly and now heads to the Governor's desk. The bill would permit a 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.

VACo Contact: Katie Boyle

Two dredging bills approved by Governor, three more await signatures

A package of dredging bills was introduced by Delegate Keith Hodges this session to seek new, effective, and creative ways to ensure the channels leading to Chesapeake Bay remain cleared and passable. Of these five bills, two have already been approved by Governor Ralph Northam while the remaining three await his signature.

HB 1091 expands the list of projects eligible for financing through the Virginia Resources Authority (VRA) to include any dredging program or project undertaken to benefit the economic and community development goals of a local government (though it excludes projects undertaken by the Virginia Port Authority). Governor Northam approved this bill March 5, 2018.

HB 1092 modifies the definition of "development project area" for purposes of tax increment financing to include any area designated as a "dredging project," other than a dredging project for or by the Virginia Port Authority, unless the Authority has an agreement with a local governing body for local financial participation in such a project. Governor Northam approved this bill March 2, 2018.

The remaining three dredging bills all received broad support from both the House and Senate and must be acted upon by the Governor by April 9. These bills are as follows:

HB 1093 authorizes the Middle Peninsula Chesapeake Bay Public Access Authority (the Authority) to receive and expend public funds and private

donations and apply for permits in order to perform dredging projects on waterways and construct facilities and infrastructure within the region for which the Authority exists. The bill requires such projects to enhance recreational or commercial public access.

HB 1095 authorizes the Middle Peninsula Chesapeake Bay Public Access Authority and the Northern Neck Chesapeake Bay Public Access Authority to undertake dredging projects and authorizes those public access authorities and the Eastern Shore Water Access Authority, which currently is empowered to undertake dredging projects, to work together in any combination to undertake dredging projects in any of their jurisdictions.

Finally, HB 1096 directs the Marine Resources Commission to develop a fast-track regulatory permitting program for the selection and use of appropriate sites in Tidewater Virginia for the disposal of material dredged in such region, to be effective no later than July 1, 2019.

VACo Contact: Chris McDonald, Esq.

Governor Northam approves Delegate Hodges' stormwater workgroup bills

Two bills drafted upon the recommendations of Delegate Keith Hodges' Stormwater Workgroup have been signed into law by Governor Ralph Northam.

HB 1307 (Hodges) and HB 1308 (Hodges) were drafted 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 managing and treating stormwater in the applicable localities. Each bill was the result of a year's worth of meetings and work by Delegate Hodges and the stakeholder members of the HB 1774 Workgroup (so named after Delegate Hodges' 2017 legislation that created the group).

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 tiered approach that is based on the percentage of impervious cover in the watershed. The bill provides that any project whose construction would cause the watershed in which it is located to step up to the next higher tier shall be evaluated under the energy balance method or a more stringent alternative. Finally, HB 1307 also directs the Department of Environmental Quality to use an appropriate new or existing Regulatory Advisory Panel to assist in clarifying the interpretation and application of the MS-19 standard.

HB 1308 authorizes any 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 signed, sealed, and certified plans (and supporting calculations) for land-disturbing activities that disturb 2,500 square feet or more but less than one acre of land. The bill also directs the Department of Environmental Quality (DEQ) to examine the possibility of expanding the use of the agreement in lieu of a stormwater management plan, currently authorized for use in the construction of certain single-family residences, to include any nonresidential development site of less than one acre in a rural Tidewater locality.

Each of these two bills saw widespread support from the General Assembly. In their final forms, HB 1307 passed the House 99-0 and the Senate 40-0, while HB 1308 passed the House 96-1 and the Senate 40-0. Both bills were signed by Governor Northam on March 5, 2018 and will take effect July 1, 2018.

VACo Contact: Chris McDonald, Esq.

Conflicts and ethics bills in the 2018 Session

Filing and deadlines
SB 298/HB 990 (Norment/Gilbert) clarifies that the authority of the Virginia Conflict of Interest and Ethics Advisory Council (Council) to grant extensions from the deadline for filing disclosure forms does not extend to filings made by a candidate for public office, as such candidate filings are not filed with the Council. This will become law in July.

HB 992 (Gilbert) provides that only one disclosure statement per calendar year is required under the State and Local Government Conflict of Interests Act for an individual who, subsequent to filing the required disclosure statement for the individual's current position or office, holds or seeks a different position or office that also requires the filing of a disclosure statement. An individual who has filed the required statement and is reappointed to the same position or office is not required to file a second statement if the reappointment occurs within 12 months of the earlier filing. This will become law in July.

Conflicts and ethics study
SJ 75 (Norment), which passed both houses, establishes a two-year joint subcommittee consisting of six legislative members and two nonlegislative citizen members to study the current ethics laws in the Commonwealth. In conducting its study, the joint subcommittee shall study the disclosure requirements of the members of the General Assembly and lobbyists and identify those portions of the ethics laws that should be repealed, substantially amended, rewritten for clarity, or retained in their present form. In its review, the joint subcommittee shall examine the effectiveness and efficiency of the ethics laws in promoting public trust and confidence in the service of public officials.

Although the language of the study focuses on the General Assembly and Lobbyist provisions of the law, changes to these sections will likely result in changes to the State and Local Government Conflicts Act and thus impact local government officials. VACo will follow this study closely and give input to the study committee.

School board hiring bill
HB 212/SB 214 (Wright/Black) allows any school district to invoke the current exemption from the prohibition against hiring, under certain circumstances, a school district employee who is related to a member of the school board. The exemption states that the prohibition shall not apply to employment by any school division provided that (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision. Current law limits use of the exemption to only certain school districts.

VACo Contact: Phyllis Errico, Esq., CAE

Electric vehicle charging legislation becomes law

Legislation that authorizes localities to locate and operate a retail fee-based electric vehicle charging station on any property it owns or leases has been signed into law by Governor Ralph Northam.

SB 908 (McClellan) and HB 922 (Bulova) authorize any locality, public institution of higher education, or the Department of Conservation and Recreation (DCR) to locate and operate a retail fee-based electric vehicle charging station on property such entity owns or leases. The legislation also allows a locality to limit the use of a retail fee-based electric vehicle charging station on its property to employees of the locality and authorized visitors and to install signage that provides notice of such restriction.

SB 908 and HB 922 were drafted to fix uncertainty created by 2011 legislation that initially enabled any "person" to operate such a fee-based charging station. In the ensuing years, some localities interpreted this language in the broadest sense and installed their own fee-based charging stations, while other localities did not believe they were authorized to do so.

VACo worked with Delegate David Bulova and Senator Jennifer McClellan to amend the initial bill 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 and instead retained this as a local option. We are

grateful for their hard work in addressing these important issues and were pleased to support the bills throughout the 2018 General Assembly session.

SB 908 was signed by Governor Northam on March 9, 2018, and will take effect July 1, 2018.

VACo Contact: Chris McDonald, Esq.

Renewable energy pilot program for schools heads to Governor's desk

HB 1451 (Sullivan) successfully passed the House and Senate and will now be sent to Governor Ralph Northam for signing.

Delegate Rip Sullivan's bill directs Dominion Virginia Energy to conduct a pilot program under which any public school in the Commonwealth that generates more electricity from a wind-powered or solar-powered generation facility than it consumes in a billing period may either credit the excess electricity to the metered accounts of one or more other schools in the school division or be paid for the excess electricity at the contractually negotiated rate. The pilot program will be capped at 10 megawatts in the aggregate.

HB 1451 saw widespread support from stakeholders and legislators alike, unanimously reporting out the House Commerce and Labor Committee and the Senate Commerce and Labor Committee and ultimately unanimously passing each full chamber. Governor Northam will now have until April 9 to act on HB 1451.

VACo Contact: Chris McDonald, Esq.

Drone bills headed to the Governor's desk

HB 1482 (Thomas) and SB 508 (Carrico), which expand the use of unmanned aircraft systems by public bodies without obtaining a search warrant reported out of their conference committees, passed both houses, and are headed to the Governor's desk. The bills provide that drones may be deployed by a law-enforcement officer for the purpose of a developing a crash report, crash reconstruction and a record of the scene by photo or video. The Virginia Department of Transportation may also use the devices when assisting law-enforcement officers to prepare such report.

Two other drone bills of interest to local governments, HB 638 (Collins) and SB 526 (Obenshain), address trespassing by an individual with an unmanned aircraft

system. Both bills reported out of conference, passed both houses, and are headed to the Governor's desk. The bills expand the current prohibition on the regulation of private drones by localities to political subdivisions. Negotiated language by VACo and VML clarifies that the change does **NOT** permit a person to enter upon land owned by a political subdivision just because he is in possession of a drone if under other circumstances he is not permitted to enter upon such land.

The bills add that a person will be guilty of a Class 1 misdemeanor if, after given notice, continues to knowingly and intentionally enter the property of another and come within 50 feet of a dwelling house to coerce, intimidate, or harass another person. Such provisions don't apply when the person (i) has the consent of the owner of the property, or (ii) is authorized by federal regulations to operate and is lawfully operating the drone. Also, the bills make it unlawful for sex offenders or individuals under protective orders to use drones to knowingly and intentionally follow, contact, or capture images of another person. A violation of this section is a Class 1 misdemeanor. Lastly, the bills repeal the second enactment of Chapter 451 of the 2016 Acts of Assembly, which set the sunset provision on the prohibition on localities to regulate drones for July 1, 2019.

VACo Contact: Khaki LaRiviere

Bill limiting regulation of fire hazard posed by mulch passes

HB 1595 (Wilt) and SB 972 (Obenshain) would allow any property owner to continue to add "combustible landscape cover material" (i.e. 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.

A simple requirement adopted by the City of Harrisonburg to keep mulch at least 18 inches from a structure, prompted the legislation to prevent any locality from adopting commonsense rules to prevent a building from going up in flames due to mulch being too close to a structure. **VACo opposed** the measure and requested that localities should continue to have the ability to require a separation between combustible mulch and a building. Such a separation prevents fires and potentially saves lives. Additionally, other options exist for replacing existing groundcover with non-flammable material.

The bills now await action from Governor Ralph Northam. In testimony in committee his administration opposed the measure due to overriding concerns for public safety.

VACo Contact: Joe Lerch, AICP

Distracted driving bills ultimately fail except for work zone bill provision

A bill seeking to expand situations under which a person could be charged with distracted driving died in the final days of the session after much discussion and the introduction of two substitutes on the Senate floor. The version of HB 181 (Collins) that passed out of the House, 50-47, provided that any person driving a motor vehicle on any highway while using a handheld personal communications device substantially diverting the driver's attention from operating the vehicle is guilty of distracted driving.

Ultimately, the House unanimously rejected the substitute, and the Senate insisted on its amendments, 35-4. The bill went into conference for two days, and failed to pass due to no action taken in the House.

However, HB 1525 (Yancey), which adds an increased mandatory fine of $250 for using a handheld personal communications device for reading emails or texting while operating a motor vehicle in a highway work zone fared better and passed both houses and is headed to the Governor's desk.

VACo Contact: Khaki LaRiviere

Ammonia-nitrogen water quality bills await action from the Governor

Several bills drafted to mitigate the anticipated impacts on localities and wastewater authorities of the Environment Protection Agency's (EPA) 2013 water quality criteria for guidance cleared both the House and Senate and have reached Governor Ralph Northam's desk.

As drafted, the new EPA guidance seeks to reduce the ammonia-nitrogen limits in wastewater treatment plants (WWTPs) to approximately half of the level currently allowed, requiring major, highly expensive upgrades to hundreds of WWTPs across the Commonwealth that are neither designed nor constructed to meet these new levels. According to a recent engineering study, this change cost their owners $512 million in capital construction as well as an additional $34 million in operating costs. The study estimates that 590 treatment plants would be impacted, though the Virginia Department of Planning and Budget has estimated 370 plants would be impacted. While the impacts will be felt across the state, this burden falls most heavily on smaller treatment plants in Southside, West, and far Southwest Virginia.

SB 344 (Peake) and HB 1475 (Poindexter) directs the State Water Control Board not to adopt certain U.S. Environmental Protection Agency (EPA) freshwater ammonia water quality criteria (the Criteria) unless the Board includes in such adoption a phased implementation program consistent with the federal Clean Water Act with certain funding and timing considerations. The bill also directs the DEQ to (i) identify any other states that have adopted the Criteria as of July 1, 2018; (ii) identify those procedures for the implementation of the Criteria that will minimize the impact of such implementation on Virginia sewerage systems while complying with the Clean Water Act; and (iii) report its findings to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Finance Committee, and the House Appropriations Committee by November 1, 2018.

SB 340 (Peake) and HB 1608 (Poindexter) authorizes the DEQ to distribute grants from the Virginia Water Quality Improvement Fund for cost effective technologies to reduce nutrient loads of total phosphorus, total nitrogen, or nitrogen-containing ammonia subsequent to satisfaction of nutrient reductions of regulations, permits, or the Chesapeake Bay TMDL Watershed Implementation Plan. The bill requires the DEQ to prepare a preliminary estimate of the amount and timing of Water Quality Improvement Grants required to fund projects to reduce loads of nitrogen-containing ammonia at certain levels based on an estimate of the anticipated range of costs for all publicly owned treatment works if the State Water Control Board were to adopt the 2013 Aquatic Life Ambient Water Quality Criteria for Ammonia published by the U.S. Environmental Protection Agency.

VACo was proud to work with a number of stakeholders, including the Virginia Municipal Stormwater Association (VAMSA), on the final language of these bills and spoke in support of these measures during the 2018 Session.

VACo Contact: Chris McDonald, Esq.

Legislation requiring Community Services Boards to provide mental health and substance abuse services in jails fails to move forward; discussions expected to continue

HB 1487 (Stolle) and SB 878 (Dunnavant) would have required local Community Services Boards (CSBs) to provide mental health and substance abuse services for individuals incarcerated in local and regional jails (HB 1487 was amended to provide that the CSB would deliver these services upon the request of the sheriff or regional jail superintendent). The bills also provided that previously incarcerated individuals could continue to receive services from the CSB that

delivered services in the jail or from the CSB serving the locality in which the individuals reside after being released. The bills would have directed the Board of Corrections to establish standards for the provision of mental health services in local and regional correctional facilities, to include the requirement that each sheriff enter into an agreement with the local CSB and that each regional jail superintendent enter into an agreement with each CSB serving the localities participating in the regional jail (SB 878 was amended to preserve the option for sheriffs or jail superintendents to contract with private providers for the services). The bills provided that the CSB would bill the local or regional jail for its services.

HB 1487 was left in the House Appropriations Committee after a subcommittee recommended that the bill be continued to 2019. SB 878 was tabled in the same subcommittee. Provisions requiring the development of standards for the provision of mental health care in local correctional facilities, to include substance abuse services, were later added to a separate bill dealing with the provision of medical or mental health care for inmates who are unable to consent to treatment, but that legislation failed to emerge from a conference committee before adjournment of the session.

VACo had expressed concerns during the session about HB 1487 and SB 878 and how state funding would support the provision of services that the legislation would mandate, or whether the services would be expected to be funded from existing state allocations, with additional costs to be absorbed by the localities. The Department of Planning and Budget noted in its Fiscal Impact Statement for HB 1487, "Because of the varying ways in which mental health treatment is currently provided in jails, it is unknown if the amount currently spent by local and regional jails will offset the cost of CSBs providing the services, particularly if transportation costs must be figured in."

Although the legislation was not enacted this year, the issue will continue to be a topic of discussion. The topic of health care in correctional facilities is under review by the Joint Commission on Health Care, and the Joint Subcommittee to Study Mental Health Services in the 21st Century is also examining the appropriate structure and financing of the CSB system.

VACo recognizes the need to provide health care, including mental health care, to inmates in a cost-effective manner, and worked during the session with a coalition of stakeholders on a package of budget amendments that would assist with connecting individuals to services in the community when they are discharged from jails. The budget amendments would provide the infrastructure needed to streamline inmates' enrollment in Medicaid so that their inpatient hospitalization could be covered during their time in jail and so that eligible inmates could be immediately enrolled in Medicaid upon release – a particularly important element in the reentry process for inmates with serious mental illness who may be eligible for the GAP program (which provides a limited package of Medicaid benefits for individuals with serious mental illness who would

otherwise not qualify for the full Medicaid program). These amendments were incorporated into the House budget during the session, and VACo will advocate for their inclusion in any final budget agreement.

VACo Contact: Katie Boyle

Court safety bill dies

SB 827 (Howell) would have allowed localities to increase assessments made on defendants convicted of violating a statute or ordinance from $10 to up to $20. Revenue from the assessment shall be used for funding courthouse security personnel and, at the request of the sheriff, other security-related equipment and property. The fee hasn't been raised in 10 years. And, the Compensation Board security staffing standard for courtroom and courthouse security is underfunded by 124 court services deputies with an annualized cost of $4,305,634 across localities.

The House Appropriations Committee's Public Safety Subcommittee laid the bill on the table by a 5-3 vote.

VACo Contact: Khaki LaRiviere