

# 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, April 11, 2018

## Governor's Amendments and Vetoes to be Considered at April 18 Reconvened Session

Governor Ralph Northam released his final amendments to legislation from the 2018 regular session on Monday, April 9. Gubernatorial amendments to 53 bills (including House and Senate pairs) will be considered by the General Assembly on April 18 at the Reconvened Session. For the Governor's amendments to be accepted, both chambers must agree. Governor's amendments may be accepted in whole or in part. If the General Assembly rejects the Governor's amendments (either in whole or in part), the bill is returned to the Governor, who then has 30 days to take final action on the legislation by signing or vetoing the bill; if the Governor fails to act before the 30-day deadline, the bill becomes law without his or her signature.

At the Reconvened Session, the General Assembly will also consider 10 bills vetoed by the Governor. A super-majority vote of two-thirds of members present (which must include a majority of members elected) in each chamber is required to override a gubernatorial veto.

### Support Governor's veto of property assessment bill

[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). This legislation was introduced as a result of a dispute between the owners of two country clubs and Arlington County over the valuation of their properties. **VACo opposed the bill** during the session due to the troubling precedent the bill would set. VACo is appreciative of the Governor's action to veto this legislation.

**ACTION REQUIRED** – Please encourage your legislators to sustain the Governor’s veto.

## **KEY POINTS**

- This bill sets a bad precedent by interjecting the state into decisions about local land use and tax policy. Adopting land use value taxation should be a local decision, not a mandate by the General Assembly.
- The bill would override the existing process created in statute for property owners to appeal assessments, which allows for taxpayers to 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, particularly if landowners in other localities were to seek similar intervention by 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**

[General Assembly Members](#)

**VACo Contact:** [Katie Boyle](#)

# Governor's Amendments to Bills of Interest to Local Governments

## **Solar tax exemption**

[SB 902 \(Lucas\)](#), a bill introduced at VACo's request, would provide more local flexibility in the tax treatment of solar facilities. Under current law, solar facilities greater than 20 megawatts (MW) in generation capacity are provided a mandatory 80 percent exemption from local property taxes. SB 902 caps this mandatory exemption at facilities of less than 150 MW and enables localities to provide exemptions for facilities of 150 MW or greater, as a local option. The Governor's amendments stipulate that the mandatory exemption remains in place for all projects greater than 20 MW (including those 150 MW or greater) for which an initial interconnection request form has been filed before June 30, 2018. **VACo does not support the amendment.** VACo's preference is to retain the local option to provide preferential tax treatment for facilities 150 MW or greater, regardless of when interconnection requests are filed.

## **Regulation of mulch as a fire hazard**

[HB 1595 \(Wilt\)](#)/[SB 972 \(Obenshain\)](#) limit local authority to regulate the use of mulch, which can pose a fire hazard when applied too close to a structure. The bills provide that an owner of real property who has an occupancy permit issued as of January 1, 2018, shall not be required to retrofit existing landscape cover materials (including mulch), and shall not be prohibited from continuing to use or adding to existing landscape cover materials. VACo opposed these bills during the session. The Governor's amendment provides that the bills do not apply to certain structures housing larger numbers of people, such as assisted living facilities, certain college dormitories, apartment buildings, or hotels. **VACo supports this amendment.**

## **Other Bills of Interest**

### **Drones**

[HB 638 \(Collins\)](#)/[SB 526 \(Obenshain\)](#) deal with trespassing via use of an unmanned aircraft system and limit the ability of political subdivisions to regulate the use of privately-owned unmanned aircraft systems within their boundaries. The Governor's amendments provide an exception to the restriction on local authority for local school boards, and add a requirement for the Secretary of Commerce and Trade to work with the Virginia Economic Development Partnership to review the impact of the legislation on unmanned aircraft research and economic development.

### **Vetoes**

In addition to HB 1204, the Governor vetoed nine other bills, among them [HB 158 \(Cole\)](#), which would authorize the General Assembly to make technical corrections to legislative district boundaries after the completion of decennial

redistricting. **VACo has historically supported this bill** as a means of addressing the problem of split voting precincts, but there have been differing interpretations by General Assembly members and the Administration of the language in the Virginia Constitution governing the timing of redistricting, and past legislation has not been successful. The General Assembly has signaled its intention to work on the issue of split precincts, among other election matters, in a new Joint Subcommittee on Election Review. Delegate Cole, Chairman of the House Privileges and Elections Committee, announced on April 11 that the Joint Subcommittee will hold an initial organizational meeting on April 18. VACo looks forward to working with the legislature and the Administration on these critical matters in preparation for the next redistricting in 2021.

[A list of the Governor's vetoes](#) is available on the Legislative Information System website.

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