

# Capitol Contact

## Virginia General Assembly

Virginia Association of Counties • 1207 E. Main Street, Suite 300 • Richmond, VA 23219  
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Tuesday, January 22, 2019

## Budget Amendments Introduced at VACo's Request

VACo worked with patrons in the House and Senate to introduce a package of budget amendments to address major priorities of local governments. All member amendments were due to the House Appropriations Committee and the Senate Finance Committee on Friday, January 11, so that staff could review them for any necessary technical corrections and prepare amendments for committee consideration. Member amendments were posted online on Wednesday, January 16, and began to be considered by the House Appropriations Committee and the Senate Finance Committee on Thursday, January 17. Deliberations on budget requests will continue throughout the coming weeks in advance of the “money committees” reporting their budgets on Sunday, February 3.

**VACo is grateful to members for ensuring that important issues to county governments are part of the budget discussions.** VACo encourages members to contact their legislators in support of these amendments. It is particularly helpful to contact members of the [House Appropriations Committee](#) and the [Senate Finance Committee](#).

Below is a summary of the amendments introduced at VACo's request, many of which are joint requests with the Virginia Municipal League:

### **K-12 support position cap**

[Item 127 #1h \(Sickles\)](#) and [Item 127 #1s \(Howell\)](#) direct the Secretary of Education and the Secretary of Finance, in consultation with the Chairs of the appropriate General Assembly Committees, to develop a plan to eliminate the current cap on recognition of support positions in the Standards of Quality and instead recognize support positions in accordance with prevailing local practice, which had been the case before the recession. The plan is due prior to the 2020 General Assembly session and must include a schedule to eliminate the cap by FY 2024. VACo has a longstanding position in favor of eliminating this cap, which artificially limits the number of support positions for which the state will share costs.

### **Adjust state and local shares for Standards of Quality Funding**

[Item 136 #22h \(Krizek\)](#) and [Item 136 #4s \(Dance\)](#) provide a one-time adjustment to the Direct Aid to Public Education funding formula by increasing the state's share of the Standards of Quality from 55 percent to 57 percent. This adjustment, although temporary, would provide relief to all localities, who are struggling with the long-lasting effects of the reduction in state K-12 support during the recession.

### **Bolster VRS teacher plan funded status**

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

### **Sheriffs' deputies with law enforcement responsibility**

[Item 66 #1h](#) and companion [Item 73 #1h \(Ware\)](#), [Item 66 #3h](#) and companion [Item 73 #2h \(LaRock\)](#), and [Item 66 #7s](#) and companion [Item 73 #1s \(Black\)](#) all provide funding for 241 law enforcement deputies in FY 2020 to meet the statutory requirement for the Compensation Board to fund at least one law enforcement deputy per 1,500 persons served by each sheriff's office with law enforcement responsibility. The 1:1,500 ratio has not been funded since FY 2008, leaving localities to step in to fund positions that are needed to ensure public safety.

### **Aid to localities with police departments**

[Item 397 #2h \(Ingram\)](#)/[Item 397 #1s \(Deeds\)](#) provide additional funding to the "HB 599" program, which provides aid to localities with police departments. Virginia Code provides that HB 599 funding is to increase at the same rate as growth in state General Fund revenue collections. These amendments provide \$7.9 million per year to "catch up" HB 599 funding with the state General Fund growth assumed in the introduced budget.

### **Effects of Medicaid expansion on Community Services Boards (CSBs)**

The biennium budget passed in 2018 assumes that, as a result of Medicaid expansion, CSBs will be able to bill Medicaid for services for previously-uninsured individuals whose care had been funded by state General Funds. The 2018 budget also reduces state General Funds to CSBs accordingly in FY 2019 and in FY 2020. CSBs have expressed concern that Medicaid billings will fully replace the reduced state General Fund support, particularly in the current fiscal year. The Governor's budget would allow the Department of Behavioral Health and Developmental Services to provide funding from special fund balances at the end of the fiscal year to Community Services Boards in circumstances where a Community Services Board's additional FY 2019 Medicaid reimbursements do not reach at least 90 percent of the general fund reductions assumed in the 2018 Appropriations Act for FY 2019. [Item 310 #4h \(Sickles\)](#) and [Item](#)

[310.3s \(Barker\)](#) would allow that assistance to be provided prior to the end of the fiscal year so that the provision of critical services is not disrupted. The amendment also requires the Department of Behavioral Health and Developmental Services to report on how the expected GF savings compared to actual Medicaid payments for FY 2019, so that the expected GF savings in FY 2020 may be adjusted in amendments to the biennium budget during the 2020 General Assembly if necessary.

### **Protecting the Communications Sales and Use Tax Trust Fund**

The budget passed in 2018 directed that \$2 million per year be diverted from the Communications Sales and Use Tax Trust Fund into the state General Fund. Localities strongly objected to this move, as the Trust Fund represents revenues held in trust for localities; the funding represented savings from the telecommunications relay contract (which is paid for “off the top” of the Trust Fund) that should have been left in the Trust Fund rather than being swept for general state purposes. VACo, VML, and Virginia First Cities requested that the Governor eliminate this transfer in his budget and are grateful to the Governor for eliminating the transfer in FY 2020 in the introduced budget. [Item 3-1.01 #2h \(Ingram\)](#) and [Item 3-1.01 #1s \(Wagner\)](#) and [Item 3-1.01 #3s \(Ebbin\)](#) would eliminate the transfer in FY 2019, thereby fully preserving the integrity of the Trust Fund, a particularly important consideration given the decline in revenues generated by the Communications Sales and Use Tax.

### **Study of election administration costs**

[Item 1 #2h \(Cole\)](#) and [Item 1 #3s \(Ebbin\)](#) would set up a stakeholder workgroup to examine how elections are funded in Virginia, to include current state support and expected future needs of the system. The workgroup would provide a venue for sharing information on potential cost-sharing efficiencies as well as an opportunity for discussions of expected challenges in the future and recommendations for how those challenges can be met.

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

Amendments carried by Delegate Kilgore and Senator Peake (House item to be assigned; [Item 391 #2s](#)) provide \$1.3 million per year to pay for service charges levied in lieu of property taxes on state correctional facilities and eliminate budget language that overrides the existing statutory mandate for the Department of Corrections to pay these service charges.

VACo Contact: [Katie Boyle](#)

## **Legislation affecting valuation of machinery and tools set for further consideration later in the week**

VACo opposes [HB 2640 \(Byron\)](#), which would change a long-standing interpretation of one of the methods of valuation of machinery and tools

currently specified in statute. Current Code provides that machinery and tools shall be valued by means of depreciated cost or “a percentage or percentages of original total capitalized cost excluding capitalized interest.” Several Attorney General opinions and Tax Commissioner rulings have affirmed the validity of valuing the equipment based on the cost when purchased by the original owner. HB 2640 would provide that “original total capitalized cost” would be defined instead as the cost of the equipment to the current owner, plus any cost incurred by the current owner to extend the useful life of the equipment, assuming the current owner acquired the equipment in an arm’s length transaction. This provision could create a situation in which the same equipment of the same age is valued differently, depending on whether it is still owned by the original owner or had been sold to a new owner.

The bill was heard Monday morning by the House Finance Committee, but after concerns were raised about the potential implications of the legislation, House Finance Committee Chairman Lee Ware directed that the bill be sent to a subcommittee for a fuller hearing, presumably later this week.

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

## Oppose unfunded mandate school bus bill

On January 21, [HB 1710 \(Krizek\)](#), which instructs the Virginia Board of Education to make regulations requiring each new public school bus purchased to be equipped with a seat belt consisting of a lap belt and shoulder strap or harness in every seat was reported from the [House Education Committee](#) on a 14-8 vote. As previously stated, the bill would also require that every School Board also ensure that such seatbelt equipment is present in every school bus by July 2037.

**Action Required** – VACo Members please contact your Delegates and express opposition to HB 1710. The bill has been referred to [House Appropriations Committee’s Elementary and Secondary Education Subcommittee](#). If communicating via letter or email, please send a copy to Jeremy Bennett at [jbennett@vaco.org](mailto:jbennett@vaco.org).

### Key Points

- While some localities have already begun to voluntarily move in this direction, most localities have not.
- Upgrading a school division’s fleet of school buses to include new seat belts or purchasing new buses to comply would create a significant fiscal impact to localities.

**VACo Contact:** [Jeremy Bennett](#)

## Local Stormwater Management Fund introduced

Legislation seeking to create the Local Stormwater Management Fund has been introduced in the House and Senate.

The bills authorize any locality to provide by ordinance the creation of a Local Stormwater Management Fund for providing grants to an owner of private property or a common interest community to be used exclusively for construction, improvement, or repair of stormwater management facilities or for erosion and sediment control. Any such local fund will be entirely comprised of local moneys. No state funding, such as Stormwater Local Assistance Fund (SLAF) money can be used to finance a Local Stormwater Management Fund.

Delegate Mark Cole introduced [HB 1614 \(Cole\)](#) in the House, where it has been referred to the Counties, Cities and Towns Committee and will be heard on January 24 in the [Counties, Cities and Towns Committee's Subcommittee #3](#). HB 1614 is co-patroned by Delegate Bob Thomas, who first spoke to VACo members about the idea at this summer's VACo Regions 7 & 8 Meeting in Stafford County.

In the Senate, Senator Bryce Reeves introduced [SB 1248 \(Reeves\)](#). While the House version of the Fund has yet to be heard, Senator Reeves' bill moved at a rapid pace. SB 1248 was referred to the Senate Local Government Committee, who reported the bill 12-0 with an amendment specifying that the funds could only be used for stormwater management and erosion prevention "on previously developed lands." The Senate passed SB 1248 by a unanimous 40-0 vote on January 18.

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

## Bills allowing School Boards to keep unexpended funds laid on the table

VACo spoke in opposition to [HB 1969 \(Delaney\)](#) and [HB 1921 \(Bourne\)](#) that seek to allow local school boards to retain unexpended funds appropriated to them by localities. The former bill has no other stipulations, while the latter mandates that such funding be dedicated to finance capital projects.

Currently, all year-end funds appropriated to local school divisions by the locality revert to the locality, retaining discretion with the governing body to evaluate and approve reallocation of year-end fund balances. The bills would subvert this authority given to localities and would be a dramatic policy change negatively impacting local governing bodies financially and in their relationships with other governmental entities.

Thank you to everyone who responded to our action alert and contacted your Delegates and express opposition to HB 1969 and HB 1921. The [House Appropriations Committee's Elementary and Secondary Education Subcommittee](#) voted 5-3 to lay both bills on the table.

**VACo Contact:** [Jeremy Bennett](#)

## Rural stormwater bill introduced

VACo supports Senator Emmett Hanger's bill, [SB 1328 \(Hanger\)](#), which seeks to tweak the current Stormwater Local Assistance Fund (SLAF) program to provide greater assistance to rural communities.

The bill authorizes the Department of Environmental Quality (DEQ) to provide SLAF grants to smaller, rural localities that are not regulated under municipal separate storm sewer (MS4) permits for stormwater management. In providing these moneys, SB 1328 directs the DEQ to prioritize grants for stormwater management projects that are regional in scope. Eligible projects are those that solely use SLAF funds for stormwater capital projects, including (a) new stormwater best management practices, (b) stormwater best management practice retrofitting or maintenance, (c) stream restoration, (d) low-impact development projects, (e) buffer restoration, (f) pond retrofitting, and (g) wetlands restoration.

In a statement released through the Governor's office, Senator Hanger noted that "[t]hroughout the Shenandoah Valley, small, rural towns are taking steps to improve their communities and local creeks and streams. This legislation will ensure those localities have reliable support from the state's stormwater local assistance funding."

SB 1328 is a part of Governor Ralph Northam's 2019 Legislative Agenda. The bill was referred to the [Senate Agriculture, Conservation and Natural Resources Committee](#), and is scheduled to be heard on January 31. VACo will be present to support this bill.

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

## VACo opposes employment bills that hamper local grievance process

VACo opposes [HB 2736 \(Hugo\)](#) and [SB 1783 \(Boysko\)](#), which are identical and are refilings of similar bills defeated during the 2013, 2014, 2015, 2016, and 2018 legislative sessions. The bills seek to make several changes to the local grievance

procedures that apply to all localities and local government employees throughout the Commonwealth.

The bills as introduced seek to make the local government grievance process more cumbersome, lengthy, and subject to inconsistent outcomes. Currently, many localities use a hearing officer or existing approved grievance boards or panels. This bill would revert to a three-member panel if the grievant doesn't agree to the existing panel or hearing officer. These three-member panels often have no experience in conducting such procedures, resulting in delay and inconsistency. The bills also eliminate many longstanding impartial grievance panels used by localities that currently work well.

In addition, the bills would eliminate the provision of the act regarding the interpretation of whether the relief granted is consistent with local policy. Currently, the law provides that a locality's Chief Administrative Officer (CAO), or if the CAO was directly involved in the case, the Commonwealth's Attorney to make that determination.

The main proponent of past bills 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, thus making the change to the local grievance procedure unnecessary.

Please contact Delegates on the [House Counties, Cities and Towns Committee](#) to oppose HB 2736 and Senators on the [Senate Local Government Committee](#) to oppose SB 1783.

Other problematic grievance bills include [SB 1708 \(Edwards\)](#), which makes a sweeping change to the Law-Enforcement Officers Procedural Guarantee Act by changing the final hearing panel decision from advisory to a binding decision and provides a process for petitioning the court to implement the decision of the Hearing panel. SB 1708 will be heard in the Senate Courts of Justice Committee.

[SB 1494 \(Edwards\)](#) and [HB 2263 \(Krizek\)](#) make a dramatic change to the Firefighters and Emergency Medical Technicians Procedural Guarantee Act by introducing language that would give an automatic cause of action against the local government employer for any breach of procedures of the act.

Please contact [Senate General Laws and Technology Committee](#) members to oppose SB 1494 and [House Courts of Justice Committee](#) members to oppose HB 2263.

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

## Year-round adult education/high school equivalency bill defeated

VACo spoke in opposition to [HB 1877 \(Convirs-Fowler\)](#) that would require year-round adult education programs to be provided by local school divisions. The bill was amended in Subcommittee to require that school divisions provide High School Equivalency Programs year-round, and advanced to the full House Education Committee on a 6-2 vote.

VACo expressed concern about the expansion of school programming that this bill would require and the lack of additional funding provided. Currently, local school divisions have a degree of flexibility in providing these programs to their communities. The [House Education Committee](#) failed to report the bill on a vote of 9-11.

**VACo Contact:** [Jeremy Bennett](#)

## Eminent domain bills pass Senate

A series of Eminent Domain bills were heard last week with three passing the Senate and heading to the House to be heard.

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

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

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

A fourth eminent domain bill, introduced by Senator Mark Peake, was also heard by the Senate Courts of Justice Committee. [SB 1039 \(Peake\)](#) seeks to remove the option by a land owner in a condemnation proceeding of selecting commissioners instead of jurors to determine just compensation. The Committee decided by a 14-0 vote to pass SB 1039.

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

## VACo supports municipal net metering for renewable energy projects

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

### Key Points

- The bill removes a significant barrier to deploying renewable energy by allowing the energy generated at the site to be credited towards energy consumed at other municipal facilities.
- Generation of renewable energy under the program provides a viable financing mechanism to offset energy consumption and reduce municipal expenditures on electricity.

HB 2792 was referred to the [House Commerce and Labor Committee](#) while SB 1779 was referred to the [Senate Commerce and Labor Committee](#).

**VACo Contacts:** [Joe Lerch, AICP](#) and [Chris McDonald, Esq.](#)

## School bus advertising bill advances

[HB 2222 \(O'Quinn\)](#), which would permit local school boards to display advertising material on the school buses, advanced out of the [House Education Committee](#) by a 20-2 vote on January 21.

The bill permits local school boards to display commercial advertising material on the sides of school buses between the rear wheels and the rear of the bus, provided that no such material 1) obstructs the name of the school division or the number of the school bus; 2) is sexually explicit; or 3) pertains to alcohol; food or beverages that do not meet the nutrition standards developed by the U.S. Department of Agriculture pursuant to the federal Healthy, Hunger-Free Kids Act of 2010 or any additional state or local nutrition standards for food or beverages sold to students in school; gambling; politics; or tobacco.

HB 2222 is an identical version of a bill from last session introduced by the patron, which was continued to 2019 in the [Senate Education and Health Committee](#).

**VACo Contact:** [Jeremy Bennett](#)

## Bills mandate COIA and FOIA training for local elected officials

[SB 1430 \(Obenshain\)](#) and [SB 1431 \(Obenshain\)](#) mandate FOIA and COIA training for local elected officials by December 31, 2019, and thereafter biennially.

SB 1430 requires the Conflicts and Ethics Advisory Commission to provide the training. In addition, this bill prohibits an attorney for the Commonwealth from also serving as a county, city or town attorney.

SB 1431 requires mandatory FOIA training from the FOIA Council for all local elected officials. Currently, local government records officers are required to take training yearly by either the FOIA Council or the local government attorney. In addition to the new training requirements, the bill eliminates a three-day notice period for a hearing on a petition for mandamus or injunction for a violation of the law.

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

## Performance based assessment bill defeated

VACo spoke in support of [SB 1138 \(Favola\)](#) that would allow local school boards that have applied to be designated as a School Division of Innovation to apply to replace certain standardized tests (SOLs) with performance based assessments. VACo's legislative position supports changes to educational programs and standards that rely less on standardized testing and more on critical thinking skills such as performance-based assessment. Having greater flexibility to administer performance-based assessments that allow students to demonstrate their knowledge and proficiency while creating a tangible product is an important part of the Virginia Department of Education's [Profile of Virginia Graduate](#).

The bill failed to report in the [Senate Education and Health Committee's Public Education Subcommittee](#) on a narrow 3-2 vote.

VACo Contact: [Jeremy Bennett](#)

## Key Dates for 2019 General Assembly Session

In accordance with the [procedural resolution](#) adopted by the House and Senate on January 9, key dates for the 2019 General Assembly Session are as follows:

- **January 9:** General Assembly convenes at noon. Bills that are “prefiled” must be submitted by 10 a.m. House bills affecting the Virginia Retirement System or creating or continuing a study must be filed before adjournment of the House; a similar deadline applies to Senate bills. The House and Senate will meet in Joint Assembly, typically at 7 p.m., for the Governor’s “State of the Commonwealth” address.
- **January 11:** Budget amendments from General Assembly members must be submitted to the House Appropriations and Senate Finance Committees by 5 p.m.
- **January 18:** All bills must be filed by 3 p.m. (bills may be introduced after the deadline by unanimous consent)
- **February 3:** House Appropriations and Senate Finance Committees report their respective budgets by midnight.
- **February 5:** “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bills)
- **February 7:** Deadline for each chamber to complete work on its budget

- **February 13:** Deadline for each chamber to complete work on the other chamber's budget and appoint budget conferees; also the deadline for each chamber to act on revenue bills from the other chamber and appoint conferees.
- **February 18:** Deadline for committee action on bills
- **February 23:** Scheduled adjournment *sine die*
- **April 3:** Reconvened session to consider gubernatorial amendments and vetoes

VACo Contact: [Katie Boyle](#)

## Advocate for your locality at VACo County Government Day

In Partnership with VAPDC's 50<sup>th</sup> Anniversary



**January 31, 2019 | Omni Richmond Hotel**

100 S 12th Street | Richmond, VA 23219

[Registration Form](#) | [Register Online](#) | [Omni Room Reservation Form](#)

Join us at VACo County Government Day on Thursday, January 31! This is our day to advocate on behalf of Counties at the 2019 General Assembly Session.

The event kicks off with a box lunch at noon as Governor Ralph Northam takes the podium. We're excited to learn more about how the Governor's legislative agenda will strengthen Virginia's communities. In addition, VACo staff will provide legislative reports on the major issues facing Counties in the 2019 General Assembly Session. Attendees will then meet with their General Assembly representatives.

- 930am** VACo Board of Directors' Meeting
- 11am** Registration
- Noon** Governor Ralph Northam | VACo Staff Reports
- Afternoon** Visit Capitol and Lobby Legislators
- Evening** Make plans to take your state legislators to dinner

For information on how to reach your representatives, see the [Virginia House of Delegates](#) and the [Senate of Virginia](#) member websites. Find information about VACo's positions in the [2019 Legislative Program](#). We will distribute our VACo County Government Day Bulletin at the event.

We encourage all Counties to participate in the legislative process - listen to reports about the issues and speak with your representatives about your County's concerns.

Register for the event at [VACo County Government Day Online](#) or fax the [Registration Form](#) to 804.788.0083.

**VACo Contact:** [Angela Inglett](#)