

# Capitol Contact

## Virginia General Assembly

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Friday, January 25, 2019

## Legislation Affecting Valuation of Machinery and Tools Advances from Subcommittee

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. The bill was initially heard in the House Finance Committee on Monday, January 20; after opposition was expressed by local governments, the bill was sent to the [House Finance Committee's Subcommittee #1](#) for a hearing on January 23. The Subcommittee voted to recommend the bill for reporting by the full committee on a 5-3 vote, and the bill is expected to be [House Finance Committee](#) on Monday morning, January 28.

**Action Required** – VACo encourages members to contact their [delegates](#) and express concerns about this bill.

Proponents of the bill have characterized the measure as a clarification of existing law, but the bill represents a change to current law. Two opinions of the Attorney General and two rulings by the Tax Commissioner have affirmed the validity of valuing machinery and tools based on a percentage of the cost when purchased by the original owner – a method used by many localities.

The bill would provide that the valuation would instead be based on 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. Several local government attorneys have also expressed concern that some transactions that are technically conducted at arm's length could nevertheless artificially reduce the value of the property. It should also be noted that current law already requires the Commissioner of the Revenue to consider any bona fide, independent appraisal of the property that is presented by the taxpayer.

## Key Points

- HB 2640 would change long-standing practice and has the potential to reduce local revenues. Several localities responding to [the fiscal impact survey conducted by the Commission on Local Government on the bill](#) reported significant expected revenue losses should the bill pass, as well as additional administrative complexity in changing from a well-established valuation method to a new method.
- Taxpayers who feel that the current system unfairly values machinery and tools currently have the ability to submit an independent appraisal to the Commissioner of the Revenue, who must consider that appraisal in valuing the property.

VACo Contact: [Katie Boyle](#)

## Workers' comp presumption legislation updates

VACo raised concerns over Workers' Comp Presumptive Illness legislation at a January 23 [Senate Finance Committee](#) meeting. As previously reported two pieces of legislation concerning workers' compensation for firefighters and other public safety employees with potentially massive local fiscal impact were referred from the Senate Commerce and Labor Committee to the Senate Finance Committee. One bill advanced and the other was passed by indefinitely and referred to study.

[SB 1030 \(Cosgrove\)](#) adds cancers of the colon, brain, or tests to the existing list of conditions currently presumed to be an occupational disease when developed by firefighters and certain public employees and therefore covered by the Virginia Workers' Compensation Act. The bill also removes the compensability requirement that the employee who develops cancer had contact with a toxic substance encountered in the line of duty. SB 1030, companion to [HB 1804 \(Hugo\)](#), incorporated identical legislation – [SB 1022 \(Chase\)](#), [SB 1172 \(McPike\)](#), and [SB 1528 \(Vogel\)](#).

[SB 1465 \(McPike\)](#) establishes a presumption that Post-Traumatic Stress Disorder (PTSD) is an occupational disease for firefighters, law-enforcement officers, 9-1-1 emergency call takers, and other first responders and is therefore covered by the Virginia Workers' Compensation Act. SB 1465 is a companion to three House bills – [HB 2281 \(Filler-Corn\)](#), [HB 2513 \(Hugo\)](#), and [HB 1706 \(Kory\)](#).

In a packed room, VACo staff expressed concern to the Committee regarding the potential fiscal impact of the bills on localities and cautioned that any major legislative action on Workers' Compensation Presumption issues should wait until the Joint Legislative Audit & Review Commission (JLARC) completes its

[study](#) of the issue. If enacted, this legislation will likely lead to higher employer premiums paid by localities to cover the expanded liabilities.

In a series of action-packed votes, the Committee first failed to pass SB 1030 by indefinitely and refer to JLARC on a 7-9 vote. The Committee then failed to report the bill with a financial enactment clause on a tie 8-8 vote. Finally, the Committee reported the bill 14-2.

On SB 1465, the Committee followed the recommendation of VACo's testimony and passed the bill by indefinitely with a referral to the JLARC study on a 10-5 vote.

In the House, VACo testified before [Commerce and Labor Committee's Subcommittee #2](#) on January 15 with similar concerns. The bill advanced out of both the Subcommittee and the Commerce and Labor Committee with a referral to the [House Appropriations Committee](#) unanimously. On January 22, Subcommittee #2 voted 4-1 to recommend laying HB 1706 on the table. The Subcommittee has yet to hear HB 2513 and HB 2281.

VACo will continue to weigh in on these bills and recommend delaying major policy changes to presumptive illness law until JLARC completes its study.

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

## Major threat to local land use authority defeated

[SB 1761 \(Sturtevant\)](#), which presented a dangerous threat to local land use authority, was defeated by a unanimous vote on January 24 in the [Senate Agriculture, Conservation and Natural Resources Committee](#).

SB 1761 sought to require that an application for a new solid waste management facility permit or for an expansion of or an increase of capacity at an existing landfill include a certification from the governing body for each locality within a five-mile radius of the facility, other than the locality in which the facility is or will be located unless as otherwise required, granting approval of the facility. In more practical terms, SB 1761 would give one county the authority to veto a specific land use within another county's jurisdiction.

As was echoed numerous times during the Committee's deliberations, there is no other instance or example in the Commonwealth in which one locality effectively was given veto authority over another locality's plans. This bill would have set a drastic new precedent in land use law that would directly conflict with current zoning authority as stipulated in [§ 15.2-2281](#) of the Code of Virginia, which states, "[f]or the purposes of zoning, the governing body of a county shall have jurisdiction over all unincorporated territory in the county . . . ."

VACo's long standing policy regarding local land use supports maintaining local authority to plan and regulate land use and opposes any efforts to weaken these key responsibilities. As such, VACo spoke in opposition.

SB 1761 was passed by indefinitely by a 14-0 vote.

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

## Municipal renewable energy bill powers forward

Delegate Kathy Tran's municipal renewable energy bill, [HB 2792 \(Tran\)](#), was unanimously passed out of subcommittee on January 24 and moves on to the [House Commerce and Labor Committee](#).

The bill 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.

HB 2792 was the product of months of hard work between Delegate Tran, Dominion Energy, Appalachian Power, the Virginia Association of Counties, and several localities. VACo was pleased to support HB 2792 when it is heard next week by the [House Commerce and Labor Committee](#), and will continue to speak in favor of the bill as it moves on.

The Senate counterpart to HB 2792, [SB 1779 \(Ebbin\)](#), was referred to the [Senate Commerce and Labor Committee](#) and will be heard on Monday, January 28.

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

## Rural stormwater bill advances to full Senate

VACo supports [SB 1328 \(Hanger\)](#), which seeks to tweak the current Stormwater Local Assistance Fund (SLAF) program to provide greater assistance to rural communities. The bill passed out of the [Senate Agriculture, Conservation, and Natural Resources Committee](#) on January 24 by a unanimous vote.

SB 1328 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. The bill was amended in committee to clarify that the DEQ may award up to 20 percent of SLAF moneys to non-MS4 localities. This was done to ensure that in the future, a different DEQ Director or Secretary of Natural Resources could not totally eliminate SLAF funding to MS4 localities.

SB 1328 will now head to the full Senate, where it will likely be voted on early next week.

You can read more about SB 1328 in our [January 22 Capital Contact](#) or on the [VACo Blog](#).

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

## **School behavior analyst staffing requirement bill modified to reduce fiscal impact**

On January 23, the [Senate Finance Committee](#) unanimously reported a substitute for legislation that would have required local school boards to employ one full-time equivalent licensed behavior analyst or licensed assistant behavior analyst per five schools within a local school division. Licensed Behavior Analysts try to teach students more effective ways of behaving and making changes to social consequences of existing behavior. VACo had previously expressed concerns over the bill.

[SB 1258 \(Dunnavant\)](#) was altered at the request of the patron to merely add licensed behavior analysts and licensed assistant behavior analysts to the list of student support positions in the Standards of Quality, which does not have negative impact fiscal impact to localities. This change in language was identical to [SB 1134 \(Favola\)](#), which was incorporated into SB 1258 by Senate Education and Health Committee on January 10.

VACo thanks the patron for her willingness to make changes to eliminate the fiscal impact of the bill to localities.

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

## Alcohol beverage reform bill passes House committee

[HB 2634 \(Hurst\)](#), the House vehicle for a major alcohol beverage control law reform, passed the [House General Laws Committee](#) on January 24 by a 16-6 vote and will now head to the House Floor for consideration.

The bill's Senate companion, [SB 1110 \(Reeves\)](#), passed the Senate earlier this week and will be considered by the House in the coming weeks.

The bills, which have been previously written about in [Capitol Contact](#), seek to reform Virginia's mixed beverage law. If passed, this legislation would allow the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, and a majority of votes prohibit such sales.

Current law prohibits such sales in a locality unless they have been approved through a local referendum process. These bills would essentially flip a presumption of "dry" to "wet," while still affording localities the chance to hold a referendum to remain "dry."

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

## Troubling fleet vehicle tracking bill introduced

A troubling vehicle tracking bill has been introduced that would negatively impact localities across the Commonwealth. [HB 2412 \(Adams, L.\)](#) seeks to require the owner of fleet vehicles to obtain consent of the vehicle operator before installing or placing an electronic device on the fleet vehicle to track it.

Under the language of the bill, the definition of "fleet vehicle" includes vehicles owned by a single entity and operated by employees or agents of the entity for business or *government purposes*. While law enforcement has specifically been exempted from this bill, HB 2412 would still apply to a host of local government vehicles, including ambulances, firetrucks, transit vehicles, public works vehicles, school buses, and more.

VACo has been in touch with Delegate Les Adams' office about our concerns, as have a number of localities and other organizations. So far, Delegate Adams has removed the bill from the House Courts of Justice Committee's Subcommittee #1 docket several times as he seeks to gather and consider our concerns.

As of January 25, the bill has yet to be placed on another agenda, but VACo will continue to monitor.

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

## 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

[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](#)