

Capitol Contact

Virginia General Assembly

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Tuesday, January 29, 2019

Speaker Cox and House Appropriations leadership come out in support of 5 percent teacher salary increase as Virginia teachers march on Richmond

On January 28, House Appropriations Committee Vice-Chairman Steve Landes announced that the House of Delegates budget to be released on Sunday will include a 5 percent pay raise for public school teachers. This follows the Governor's proposed budget presented in December which included \$88 million in additional state funding for a 2 percent raise on top of a 3 percent increase planned for by the legislature during last year's session. The Governor's proposal is contingent upon localities matching their local share of state funding.

The announcement came as an estimated 4,000 teachers and community members rallied in Richmond in support of public education. Wearing red, the crowd was addressed by Virginia Education Association President Jim Livingston and could be seen throughout the General Assembly. According to a 2018 [report](#) by the National Education Association, the average teacher salary in Virginia is approximately \$51,000 and lags behind the national average of \$60,000.

VACo supports reducing the burdens on the teacher workforce in the Commonwealth and urges the General Assembly to fund strategies addressing the teacher shortage.

VACo Contact: [Jeremy Bennett](#)

Troubling school security bill defeated in subcommittee

A problematic school security bill, [HB 2734 \(Bourne\)](#) that would have resulted in heavy costs to localities, was defeated Monday night.

HB 2734 was intended to accomplish three main objectives. First, it directed the Department of Criminal Justice Services (DCJS) to establish compulsory minimum training standards for law enforcement officers serving as school resource officers and provided a list of new criteria that such training must include. Second, the bill directed DCJS to establish similar compulsory minimum training standards for all school security officers and required that all such officers receive this training and certification from the Virginia Center for School and Campus Safety (VCSCS). Finally, it required that every public school in Virginia employ at least one administrator who has been trained and certified by the VCSCS.

While there was significant debate and disagreement amongst subcommittee members about the substance of these compulsory training standards, VACo's concern was the feasibility and expense of requiring hundreds of school security officers and school administrators to attend this VCSCS training. As the program currently exists, the VCSCS training is a weeklong program that is only held onsite in Richmond three or four times a year. Requiring so many officers and administrators to undertake this training would result in significant costs that would be borne by localities, including travel, lodging, and per diems. DCJS is hopeful that future additional funding will allow them to develop online options for training, but this is a long way from fruition.

The [House Courts of Justice Committee](#) voted 4-3 to pass HB 2734 by indefinitely.

VACo Contacts: [Chris McDonald, Esq.](#) and [Jeremy Bennett](#)

Oppose charter school bill removing local authority

VACo spoke in opposition to [HB 2416 \(Davis\)](#) at a January 25 meeting of the [House Education Committee's Subcommittee #2](#). The bill would allow certain charter schools to appeal to the Virginia Board of Education the denial by a local school board an application establishing a charter school. HB 2416 advanced from the Subcommittee to the full Committee on a 6-3 vote.

Action Required – Contact your [Delegates](#) and express opposition to HB 2416. If communicating via letter or email, please send a copy to Jeremy Bennett at jbennett@vaco.org. The bill will be heard by the [House Education Committee](#) at its January 30 [meeting](#).

KEY POINTS

- Bill raises possible [constitutional](#) concerns
- VACo has a long-standing legislative position opposing any legislation that removes local control from school boards to establish charter schools

KEY CONTACTS

House Education Committee: [Landes \(Chairman\)](#), [Bell, Richard P. \(Vice Chair\)](#), [Cole](#), [Pogge](#), [Robinson](#), [Yancey](#), [Davis](#), [Leftwich](#), [LaRock](#), [Helsel](#), [Collins](#), [McGuire](#), [Tyler](#), [Bulova](#), [Keam](#), [Bagby](#), [Bourne](#), [Hurst](#), [VanValkenburg](#), [Turpin](#), [Rodman](#), [Sullivan](#)

VACo Contact: [Jeremy Bennett](#)

Legislation to enhance mental health care in jails advances

Several bills have been introduced to direct the development of standards for the provision of care in jails, a topic of considerable interest during recently General Assembly sessions and among several study groups last year. Several high-profile cases, notably the death of a mentally ill man in the Hampton Roads Regional Jail in 2015, have spurred legislators to press for action in this area.

During the 2018 legislative session, bills were considered that would have required Community Services Boards (CSBs) to provide behavioral health care and substance abuse services in local and regional jails. VACo expressed serious concerns about these bills, which did not address how these services would be funded or how they would fit within the array of services to be offered by all CSBs (STEP-VA) that was established by the General Assembly in 2017 and is currently being phased in over several years. The 2018 legislation failed, but the issue of improving care in jails was examined over the summer and fall by the Joint Commission on Health Care and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century. Legislators on both study commissions endorsed the establishment of standards of care in local and regional jails, to include behavioral health care, without specifying who would be required to provide the services.

[HB 1918 \(Stolle\)](#) and [SB 1598 \(Dunnivant\)](#) direct the Board of Corrections to establish minimum standards for health care, including mental health care, in local and regional jails, and require jails to report on the delivery of services quarterly. Under the bills, the Board of Corrections may allow jails to meet these standards by virtue of their accreditation by the American Correctional Association or the National Commission on Correctional Health Care, but those jails will still be required to submit quarterly reports. [HB 1942 \(Bell, R.B.\)](#) requires the Board of Corrections to develop standards for the provision of behavioral health services in local and regional jails, to include standards for discharge planning for inmates with serious mental illness.

VACo has had productive conversations with the three patrons of these bills about the need for more state support for jail operations, and HB 1942 was amended in subcommittee to add language providing that the Board of Corrections would convene a workgroup of stakeholders to determine the costs of implementing the new standards. This workgroup will provide a venue to have further discussions about resources necessary to enhance care in jails.

HB 1918 and HB 1942 were reported from the House Health, Welfare, and Institutions Committee on January 29; SB 1598 was reported from Senate Rehabilitation and Social Services Committee and is now before the Senate Finance Committee.

VACo Contact: [Katie Boyle](#)

Construction contracts statute of limitation bill advances

Procurement legislation introduced by Senator Tommy Norment seeking to change the statute of limitations on actions on construction contracts has advanced out of the Senate Courts of Justice Committee with a substitute.

As originally introduced, [SB 1369 \(Norment\)](#) provided that no action may be brought by a public body on any construction contract unless such action is brought within five years after *substantial* completion of the work on the project and that no action may be brought by a public body on a warranty or guarantee in such construction contract more than one year from the breach of that warranty, but in no event more than one year after the expiration of such warranty or guarantee. The bill also sought to limit the time frame during which a public body may bring an action against a surety on a performance bond to within one year after *substantial* completion of the work on the project.

Under current law, a public body is enabled to bring such an action within one year after (1) completion of the contract, including the expiration of all warranties and guarantees, or (2) discovery of the defect or breach of warranty that gave rise

to the action. Thus, SB 1369 represented a sweeping departure from the status quo.

When introduced, the bill saw substantial opposition and concerns from the Northam Administration, numerous state agencies including the Department of Transportation and the Department of General Services, the higher education community, and local government representatives from VACo and VML. Ultimately, Senator Norment agreed to amend the bill and offered a substitute. As amended, the bill now prohibits action on any construction contract unless such action (1) is brought within five years of completion of the work; (2) in the case of latent defects, is brought within five years of discovery of a latent defect but not more than 10 years from completion of the work; or (3) in the case of a warranty in such a construction contract, is brought no more than one year after the expiration of such warranty.

SB 1369 reported from the Courts of Justice Committee, 13-0-1, and was rereferred to the [Senate Finance Committee](#). A House counterpart to the bill, [HB 1667 \(Kilgore\)](#), was introduced earlier in the session and will be reheard on Wednesday, January 30.

VACo will continue to analyze SB 1369 and HB 1667 as they move through the General Assembly.

VACo Contacts: [Chris McDonald, Esq.](#) and [Phyllis Errico, Esq., CAE](#)

VACo helps defeat bill mandating every school division provide alternative education program

VACo registered their continued opposition to [HB 2387 \(Bulova\)](#) at a January 25 meeting of the [House Appropriations Committee's Elementary and Secondary Education Subcommittee](#). The bill would require local school boards to provide alternative education programs for suspended students and assign licensed instructional personnel for such programs at division-wide ratios of students to full-time equivalent teaching at a ratio of 10 to 1. Though the provisions of the bill would become effective after the rebenchmarking of the direct aid to public education budget for the 2020-2022 biennium, and thus receive state funding support through the Standards of Quality, this mandate would still require additional local funding, staffing, and remove certain existing flexibilities.

Currently, local school divisions are not required to provide alternative education programs to suspended students and must give information regarding the availability of community-based educational programs, alternative education programs or other educational options. This bill would eliminate the option of referring students to community based-programs and other options, and instead require the local school division to manage and staff its own alternative program.

The Subcommittee voted 5-2 to recommend laying the bill on the table.

VACo Contact: [Jeremy Bennett](#)

Senate municipal renewable energy bill advances

[SB 1779 \(Ebbin\)](#), Senator Adam Ebbin's municipal net metering bill, successfully reported out of the Senate Commerce and Labor Committee on January 28 by a unanimous vote.

Sb 1779, the Senate counterpart to Delegate Kathy Tran's [HB 2792 \(Tran\)](#), 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.

SB 1779 now be heard on the Senate floor and will likely be voted on later this week. HB 2792 will likely be heard in the [House Commerce and Labor Committee](#) meeting on Thursday, January 31.

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

Helpful bill on local parks and recreation programs moves forward

VACo supports [HB 2280 \(Head\)](#), which preserves the current status, with respect to state regulation, of child day programs that are operated by local parks and recreation departments and serve school-age children.

In 2017, legislation was introduced that sought to make distinctions among the types of child day programs that are exempt from licensure and to impose certain minimum health and safety standards upon those programs that were deemed to be more akin to child care, while determining that some programs were not child care at all. The bill treated local parks and recreation programs as part of the former category (to remain exempt from licensure but required to meet certain standards and subject to certain supervision by the Department of Social

Services), a classification to which VACo, VML, and the Virginia Recreation and Parks Society objected, arguing that such supervision was unnecessary. The bill became entangled in a larger debate about the treatment of day programs operated by religious institutions, and was ultimately vetoed by then-Governor Terry McAuliffe. A revised version of the bill passed the legislature in 2018, but with a delayed enactment date of July 1, 2019.

HB 2280, which was heard in subcommittee last week and reported from the Health, Welfare and Institutions Committee on January 24, returns local parks and recreation programs, as well as certain programs operated by local school divisions, to the category of programs not considered to be child care (those programs receiving federal Child Care and Development Block Grant funds would remain subject to any federal rules regarding licensure), similar to participation in sports leagues or limited-term instructional programs for school age children. The parks and recreation programs would remain subject to safety and supervisory standards established by the local government, as they are today.

HB 2280, which VACo spoke in support of during the subcommittee hearing, is now on the House floor.

VACo Contact: [Katie Boyle](#)

Unfunded mandate school bus bill comes to a halt

On January 25 at a meeting of the [House Appropriations Committee's Elementary and Secondary Education Subcommittee](#), VACo staff spoke in opposition to [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. The bill would also require that every school board also ensure that such seatbelt equipment is present in every school bus by July 2037.

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.

Thank you to everyone who responded to our call to action and contacted your Delegates to express opposition to bill. The Subcommittee voted 5-2 to recommend laying the bill on the table.

VACo Contact: [Jeremy Bennett](#)

VACo voices concerns over bill shifting burden of proof for Due Process Hearings for children with disabilities

VACo registered its concerns over [HB 2463 \(Tran\)](#) at a January 28 meeting of the [House Education Committee's Subcommittee #1](#). The bill specifies that in any due process hearing (DPH) before a hearing officer to resolve certain disputes relating to the education of children with disabilities, the local school division has the burden of proof, including the burden of production and the burden of persuasion. This would represent a major shift of burden of proof in the current practice for resolving such disputes. A [DPH](#) is an impartial procedure used to resolve disagreements over issues related to special education services that arise between a parent and a school division. The right of the parents or the school division to request a due process hearing is guaranteed by federal and state laws governing the education of children with disabilities.

The concern in shifting the burden of proof entirely to local school divisions is that the number of Due Process Hearings filed would grow exponentially, leading to increased litigation in court, and increased attorneys' fees paid by school divisions. The bill also has the potential to lead to increased private placements for students, which could have a significant fiscal impact to the State through increased [Comprehensive Services Act](#) (CSA) costs. The bill also has troubling legal implications as in almost all types of litigation in the United States, the burden of proof currently lies with the party seeking relief.

Representatives of numerous state education associations testified to the potential negative impact of this. One large school division recently expended approximately \$976,000 in attorney's fees to address 25 DPH in one year. The Subcommittee moved by voice vote that the bill be referred to the Joint Legislative Audit and Review Commission (JLARC) [study](#) on the effectiveness of Virginia's Special Education programs.

VACo Contact: [Jeremy Bennett](#)

'Solar Freedom' legislation fails to escape Senate Committee

A sweeping solar energy reform bill dubbed "Solar Freedom" failed to advance out of the Senate Commerce and Labor Committee on January 29.

[SB 1456 \(McClellan\)](#) sought to achieve eight key reforms in renewable energy policy in a broad effort to remove barriers and create a stronger market for distributed solar energy.

The eight reforms were:

1. Allowing local government entities to install solar installations of up to 5 MW on government-owned property and use the electricity for schools or other government-owned buildings located on nearby property, even if not contiguous.
2. Clarifying that third-party financing using power purchase agreements (PPAs) is legal statewide for all customer classes.
3. Allowing all customers to attribute output from a single solar array to multiple meters on the same or adjacent property of the same customer. Applies to all net-metered customers. Governments get the added benefit of meter aggregation on non-contiguous sites.
4. Removing the restriction on customers installing a net-metered solar installation larger than required to meet their previous 12 months' demand. Applies to all net-metered customers.
5. Allowing the owner of a multi-family residential building to install a solar installation on the building or surrounding property and sell the electricity to tenants
6. Raising the size cap for net metered non-residential solar installations from 1 megawatt to 2 megawatt.
7. Lifting the 1 percent cap on the total amount of solar that can be net metered in a utility territory.
8. Remove standby charges on residential installations sized between 10-20 kilowatt.

After substantial debate and discussion, SB 1456 was passed by indefinitely by a 10-3 vote.

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

Local Stormwater Management Fund inches closer to reality

The Local Stormwater Management Fund has moved a step closer to reality, as [HB 1614 \(Cole\)](#) passed out of subcommittee late last week by a 6-2 vote.

HB 1614, along with its Senate counterpart [SB 1248 \(Reeves\)](#), authorizes 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.

HB 1614 will now likely be heard by the [House Counties Cities and Towns Committee](#) on Friday, February 1.

SB 1248 has already passed the full Senate and was also referred to the House Counties, Cities and Towns, where it will be heard sometime after the February 5 crossover.

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

VACo opposes bill prohibiting local school divisions from collecting fees to help fund extracurricular activities

VACo expressed its concerns over [HB 2319 \(Bell, Richard\)](#) at a January 28 meeting of the [House Education Committee's Subcommittee #1](#). The bill would prohibit local school boards from collecting fees or charges for any currently approved extracurricular activities or services such as drivers' education, or to help replace lost or damaged school property such as textbooks. Representatives of various education associations testified that the impact of such legislation would result in an unfunded mandate where the costs of existing services are passed onto local taxpayers or services are scaled back due to lack of funding. The bill did not garner a motion and as a result was left in Subcommittee.

VACo Contact: [Jeremy Bennett](#)

'Tim Tebow' bill fails to make first down with VACo in opposition

On January 23, VACo spoke in opposition to [HB 2102 \(Freitas\)](#), also known as the "Tim Tebow" bill, which would prohibit public schools from participating in interscholastic programs such as the Virginia High School League if they did not allow participation from students receiving home instruction. This is perennial effort named after NFL star Tim Tebow, who was allowed to play high school football in Florida while receiving home instruction.

VACo is concerned with any measures that may divert public funding to non-public education and was joined in opposition by the Virginia High School League, Virginia School Boards Association, and Virginia Association of School Superintendents among other education groups. The bill failed to report on a 10-11 vote in the [House Education Committee](#). This marks the second time in as many years that this bill has been defeated in Committee.

VACo Contact: [Jeremy Bennett](#)

WQIF and SLAF bill clears latest hurdle, awaits House Appropriations Committee hearing

A bill seeking to broaden the applicability of Water Quality Improvement Fund (WQIF) grants as well as enact new reporting requirements for WQIF and Stormwater Local Assistance Fund (SLAF) needs has cleared its latest hurdle, unanimously passing the House Appropriations Committee's Commerce, Agriculture, Natural Resources and Technology Subcommittee.

[HB 1822 \(Bulova\)](#) authorizes the Director of the Department of Environmental Quality (DEQ) to authorize WQIF grants for the design and installation of certain wastewater conveyance infrastructure. Additionally, HB 1822 directs the DEQ to consult with stakeholders annually to estimate the amount of grant funding that local governments will request during the upcoming year from WQIF and SLAF and to submit those estimates to the Governor as part of a biennial funding report and an annual progress report that are required by current law. To read more about HB 1822, please visit the [VACo Blog](#) or the [January 17 edition of Capitol Contact](#).

HB 1822 has seen a number of stops on its journey into law. The bill was first passed 9-1 by the House Agriculture, Chesapeake and Natural Resources Committee's Subcommittee #3 before it was reported from the full Committee 22-0 and rereferred to the House Appropriations Committee. Now, after a 7-0 vote in the House Appropriations Committee's Commerce, Agriculture, Natural Resources and Technology Subcommittee, HB 1822 will be heard by the full House Appropriations Committee.

It is unclear when HB 1822 will be placed on the agenda as the House Appropriations Committee has cancelled its last two meetings (scheduled January 25 and January 28).

VACo will continue to track this important bill and is prepared to speak in favor of HB 1822 when it is next presented.

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 50th Anniversary



January 31, 2019 | Omni Richmond Hotel
100 S 12th Street | Richmond, VA 23219

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.

- 9am** 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.

VACo Contact: [Angela Inglett](#)