

# Capitol Contact

## Virginia General Assembly

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Monday, February 4, 2019

# Money Committees Report Budgets

On Sunday, February 3, the House Appropriations Committee and Senate Finance Committee met to report their respective budget proposals. VACo is reviewing the subcommittee reports presented yesterday, which provide an overview of the Committees' priorities. Both Committees made significant changes to the introduced budget, many of which are attributable to decisions to depart from the Governor's approach to the intersection of Virginia's income tax structure with changes made in federal tax reform legislation passed at the end of 2017.

The full text of the Committee amendments will be available Tuesday, February 5, which will enable a more detailed review of the proposals. VACo will provide analysis in a future edition of Capitol Contact. The full House and Senate will debate their respective budgets on Thursday, February 7.

VACo Contact: [Katie Boyle](#)

## VACo opposes bill to rewrite local ordinance regulating Airbnb

Fairfax County adopted regulations in 2018 to allow short-term rentals in residential neighborhoods where previously they were not allowed. Typically, such rentals are facilitated through online platforms such as Airbnb, FlipKey, and HomeAway. Based on input from the community, including 11 public hearings and an online survey, the Fairfax County Board of Supervisors put in place reasonable restrictions to address multiple stakeholder viewpoints.

[SB 1701 \(Ebbin\)](#) passed the Senate and seeks to undo this yearlong effort to reach compromise by mandating that Fairfax County triple the number of nights per

year (going 60 to 180) that a host would be allowed “by right” to accommodate up to six adult guests.

**ACTION REQUIRED** – SB 1701 passed the Senate by a 26-12 vote and will be headed to the House for consideration. Please contact your [Delegates](#) now to oppose.

## KEY POINTS

- Passage of this bill would set an unwelcome precedent and have a chilling effect on the willingness of local elected bodies to accommodate short-term rentals in residential areas.
- VACo opposes any legislation that limits or restricts local authority to regulate short-term rentals.

## KEY CONTACTS

[Virginia House of Delegates](#)

**VACo Contact:** [Joe Lerch, AICP](#)

# Continue to oppose charter school bill removing local authority

[HB 2416 \(Davis\)](#) allows certain charter schools to appeal to the Virginia Board of Education the denial of an application establishing a charter school by a local school board. HB 2416 was referred to the House Education Committee’s Subcommittee #2, where it was heard on January 25.

**VACo spoke in opposition** to this measure, as did representatives from numerous school organizations, including the Virginia School Board Association (VSBA) and the Virginia Association of School Superintendents (VASS). House Education Committee reported the bill on January 30 by the on a narrow 11-10 vote.

**ACTION REQUIRED** – Contact your [Delegates](#) to oppose HB 2416. If communicating via letter or email, please send a copy to Jeremy Bennett at [jbennett@vaco.org](mailto:jbennett@vaco.org).

Thank you to everyone who contacted members of the House Education Committee on this bill. The legislation now advances to the full House, where a vote must take place on Tuesday, February 5.

## KEY POINTS

- **VACo has historically opposed** measures that would remove the authority from local school boards to make decisions about the establishment of charter schools.
- The bill raises possible [constitutional](#) concerns regarding the government of public schools.

## KEY CONTACTS

[Virginia House of Delegates](#)

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

## Constitutional Amendments advance

The House Privileges and Elections Committee considered several Constitutional amendments on Friday, February 1, reporting three measures to the House floor. Several amendments of interest to local governments have also been passed by the Senate and await consideration in the House.

[HJ 591 \(Cole\)](#), a measure VACo supports, would allow the General Assembly to make technical adjustments to legislative district boundaries following decennial redistricting so as to enable district boundaries to coincide with precinct lines. The resolution is intended to address the problem of precincts that are split in the course of the legislature's redrawing of Congressional, House of Delegates, and state Senate districts.

[HJ 615 \(Cole\)](#) would set out a process for the appointment of a Virginia Independent Redistricting Commission, outline criteria for the composition of legislative districts, and provide for the submission of a redistricting plan to the legislature. Under the resolution, if the General Assembly rejected a proposed redistricting plan, the Commission would submit a new plan; if this plan were also rejected, the Supreme Court of Virginia would establish the districts. Of note, HJ 615 would also require local governing bodies that are elected from districts to establish a local independent redistricting commission after each decennial Census. Four commissioners would be appointed, with parity between the parties with highest and next-highest numbers of votes in the most recent gubernatorial election. The commission would submit one or more proposed plans to the governing body, where the plan or plans would be introduced as an ordinance. The Senate's version of redistricting reform, [SJ 306 \(Barker\)](#), has passed the Senate and is before the House Privileges and Elections Committee. SJ 306 also sets up a process for the appointment of a redistricting commission to develop plans for redrawing Congressional and state legislative districts,

submission of redistricting plans to the legislature, and General Assembly action on the plans, but does not address local districts.

[HJ 676 \(Filler-Corn\)](#), as introduced, would have mandated an exemption from personal property taxes for one motor vehicle of a veteran with a 100 percent service-connected, permanent and total disability. VACo objected to the extension of the current mandatory tax exemption for real property to an additional type of property, pointing out that two existing mandatory real property tax exemptions (for disabled veterans and their surviving spouses and the surviving spouses of servicemembers killed in action) represented a \$50 million revenue loss to localities in 2018, according to information compiled by the Commissioners of the Revenue. Localities currently may tax motor vehicles of veterans with certain disabilities at a reduced rate or provide an exemption, but the eligibility criteria differ from the language of the resolution, which would more closely mirror the criteria for the real property tax exemption. The subcommittee hearing the resolution reported a substitute version that would instead allow the exemption to be provided at local option, and the full committee advanced this version to the floor. [SJ 278 \(Reeves\)](#), as passed by the Senate, remains in its original version, which would mandate the tax exemption.

A related proposal, [HJ 657 \(Pogge\)](#), would have expanded eligibility for the mandatory real property tax exemption for disabled veterans and their surviving spouses to the surviving spouses of veterans who died before 2011, when the exemption was initially established. VACo raised similar concerns during the resolution's hearing about the expansion of a mandatory tax exemption to more qualifying individuals; the subcommittee recommended a substitute that would have taken a broad approach to the issue by reverting the entire existing exemption for disabled veterans to a local option. The patron requested that the resolution be stricken in full committee, so it will not move forward this year.

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

## **Troubling procurement legislation fails to advance out of subcommittee**

Problematic procurement legislation seeking to change the statute of limitations on actions on construction contracts failed to advance out of subcommittee late on February 1.

[HB 1667 \(Kilgore\)](#) attempted to amend the Virginia Public Procurement Act to significantly limit the timeframe during which a public body could bring an action on a construction contract or against a surety on a performance bond. Specifically, the bill 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.

HB 1667 was first heard in the House Courts of Justice Committee before being rereferred to the House Appropriations Committee. There, it was heard by the Appropriations Committee's General Government and Capital Outlay Subcommittee, but it ultimately failed to advance after no Subcommittee members made a motion to act on the bill.

The Senate counterpart, [SB 1369 \(Norment\)](#), passed out of the Senate Finance Committee but has not yet passed the full Senate. The House and Senate must have completed all work on their own bills by February 5, so if SB 1369 fails to pass the Senate by then, it too will be effectively dead.

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

## Workers' Comp Presumption legislation moving towards JLARC Study

VACo thanked members of the [House Appropriations Committee](#) on February 1 for unanimously reporting with enactment clauses two pieces of legislation related to Worker's Comp Presumptive Illness legislation. As previously reported, legislation concerning worker's compensation for firefighters [SB 1030 \(Cosgrove\)](#) / [HB 1804 \(Hugo\)](#) adds cancers of the colon, brain, or testes 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.

VACo has repeatedly expressed concern in public testimony and in meetings with legislators 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 as this legislation will likely lead to higher employer premiums paid by localities to cover expanded liabilities.

On a 22-0 vote and under the leadership of House Appropriations Committee Chair Delegate Chris Jones, the Committee reported both pieces of legislation with enactment clauses stipulating that, 1) the provisions of the legislation shall not become effective unless reenacted by the 2020 session of the General Assembly, and 2) such legislation shall consider any research, findings, and recommendations of the JLARC study. The legislation cannot take effect unless these actions occur. Chair Jones invited Director of JLARC Hal Greer to confirm that JLARC will study the issue and release an expedited report to the General Assembly by December 2019.

Both bills now go to the full House, while the amendments to SB 1030 must be confirmed by the Senate if and once SB 1030 is enacted by the House. As the language of the JLARC study stipulates, VACo stands ready to assist JLARC in the completion of its work on this issue.

A third bill, [HB 2513 \(Hugo\)](#), was left in House Appropriations Committee with no action taken. HB 2513 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. The Senate companion to this bill, [SB 1465 \(McPike\)](#), was previously passed by indefinitely by Senate Finance with a referral to the JLARC study on a 10-5 vote.

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

## General Assembly's shot at alcohol reform one step closer to law

Legislation seeking to reform Virginia's predominant mixed beverage license law has made it past the halfway mark in this General Assembly Session and is ready for post-crossover consideration.

[SB 1110 \(Reeves\)](#) and [HB 2634 \(Hurst\)](#) seek to 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.

Today, state 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."

The legislation includes a grandfathering provision that allows the granting of a mixed beverage license to any specific establishment that was in effect prior to the effective date of this bill, notwithstanding the provisions of the bills related to local referendums but subject to other applicable laws and regulations. The legislation also provides that the result of any referendum held prior to the effective date of the bill shall remain valid and enforceable. Finally, the bills have a delayed effective date of July 1, 2020, to allow localities a full year to adapt to the new law or make plans for a referendum.

Currently, there are nine remaining dry counties in Virginia: Bland, Buchanan, Charlotte, Craig, Grayson, Highland, Lee, Patrick and Russell. State code has

become rife with special exceptions for specific establishments, and current law does allow for alcohol referendums to be held for specific magisterial districts, so beyond these nine totally dry counties, portions of an additional 31 counties are also dry.

SB 1110 moved quickly through the Senate, reporting out of the Senate Rehabilitation and Social Services Committee, 11-3, and passing the full Senate, 23-17, on January 23. HB 2634 reported out of the House General Laws Committee, 16-6, and finally passed the full House 67-30-1 on January 30. Each bill will now be heard in the appropriate committee in the opposite chamber.

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

## School Resource Officer training bill modified to address concerns

[SB 1130 \(Locke\)](#) originally required each school resource officer (SRO) to be trained and certified by the Virginia Center for School and Campus Safety, which is not current practice and expanded the topics on which school security officers are required to be trained. VACo expressed concerns that additional training requirements would impose an unfunded mandate on localities. At a January 24 meeting of Senate Education and Health Committee's Public Education Subcommittee, the bill was recommended to report with a substitute. The substitute incorporated several other bills mandating training standards of SROs and of local school division personnel – [SB 1299 \(Barker\)](#), [SB 1530 \(Deeds\)](#), and [SB 1551 \(Surovell\)](#).

**VACo advocated with the patron and members of the Subcommittee** to amend language allowing for more permissive training standards to be determined by the Criminal Justice Services Board, and for additional local and online training options.

On January 31, after reporting on a 11-4 vote from the [Senate Education and Health Committee](#), the bill was reported on the same day from [Senate Finance](#), 16-0. Senate Finance also adopted the financial enactment clause that prohibits the bill from becoming effective unless funding is appropriated.

Thank you VACo Members for responding to the call to action on this legislation.

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

## Water quality funding and reporting bill finally reaches House floor

[HB 1822 \(Bulova\)](#), which seeks 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), has finished its journey through a House committee and will be heard this week on the House floor.

HB 1822 allows 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.

HB 1822 had a long journey through the House, first passing the House Agriculture, Chesapeake and Natural Resources Committee's Subcommittee #3, 9-1, then reporting from the full Committee, 22-0. The bill was then rereferred to the House Appropriations Committee, where it passed the Commerce, Agriculture, Natural Resources and Technology Subcommittee, 7-0, before reporting from the full Committee, 22-0. HB 1822 is now up for final vote on the House floor.

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

## School modernization legislation update

As previously reported, many localities face significant challenges in raising enough funds to undertake capital school construction or renovation projects. According to a 2013 [report](#), more than 40 percent of Virginia's public school buildings and facilities were built at least 50 years ago and another 20 percent were constructed at least 40 years ago. The condition of the facilities in which children are educated has a direct impact on their ability to learn. **VACo supports** additional state resources and additional funding options for localities for capital and school construction projects. Several pieces of legislation currently under discussion come from the Senate Local Government Subcommittee on School Facility Modernization's review of this issue prior to the session:

- [SB 1330 \(Stanley\)](#) the flagship recommendation from the Subcommittee on School Facility Modernization provides for a statewide referendum on the question of whether the General Assembly shall issue state general obligation bonds in the amount of \$3 billion for the purpose of K-12 school building construction, repair, or other capital projects related to the modernization of

school facilities. The results would be advisory only and are intended only to demonstrate the preference of the citizens of the Commonwealth on developing such a commission. The referendum would be held at the November 2019 general election. On, January 22, the Senate Privileges and Elections Committee rereferred the bill to Senate Finance on a vote of 14-0. On January 30, [Senate Finance](#) passed the bill by indefinitely on a 14-2 vote.

- [SB 1331 \(Stanley\)](#) / [HB 2192 \(Rush\)](#) establishes permissive standards for the design, construction, maintenance, and operation of public school buildings and facilities that allow for a local school division to enter into a lease agreement with a private entity to meet such standards. The bills would also allow for net energy metering for energy produced by on-site solar panels on public school buildings and facilities. **VACo collaborated** with other stakeholder groups to request that the bills be amended to include permissive language. HB 2192 was reported by House General Laws on January 31 unanimously 21-0. SB 1331 was reported from the Senate Education and Health Committee on January 31 on a 13-1 vote and also reported the same day from [Senate Finance](#), 16-0.
- [SB 1702 \(Stanley\)](#) creates the Public School Assistance Fund and Program for the purpose of providing grants to school boards to be used solely for the purpose of repairing or replacing the roofs of public elementary and secondary school buildings in the local school division. One of the conclusions reached by the Subcommittee was that many of the problems encountered in older school buildings result from the difficulties of maintaining healthy roofing. The bill permits any school board in the Commonwealth to apply for Program grants but requires the Department of Education to give priority in the award of grants to school boards that demonstrate the greatest need based on the condition of existing school building roofs and the ability to pay for the repair or replacement of such roofs. The bill was reported from Senate Education and Health, Senate Finance, and passed the full Senate, 40-0, on February 4.

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

## Helpful bill authorizing loans and grants for agricultural best management practices advances to House floor

Delegate Michael Weibert's bill authorizing loans and grants for agricultural best management practices has advanced to the House floor where it's now expected to pass.

[HB 2637 \(Weibert\)](#) authorizes the State Water Control Board (Board) to issue loans and grants from the Virginia Water Facilities Revolving Fund for the construction, renovation, improvement, or equipping of facilities or structures to

implement agricultural best management practices to prevent pollution of state waters. Current law only authorizes these loans and grants for the construction of such facilities and structures, so this law greatly expands the eligibility of this program. Furthermore, the bill includes riparian buffers planted in trees as eligible “facilities or structures.”

Notably, grants and loans of this nature may be made to local governments that have developed a low-interest loan program to provide loans or other incentives to facilitate the construction, renovation, improvement, or equipping of such facilities or structures or to financial institutions working with local governments to establish such a program.

HB 2637 reported from the House Agriculture, Chesapeake and Natural Resources Committee, 22-0, and will be heard on the House floor this week.

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

## Virginia Grocery Investment Fund dead for the year

The Virginia Grocery Investment Fund (VGIF) has effectively been killed for the year, as neither the House nor Senate budget proposals released February 3 included funding for the program.

The VGIF sought to solve the growing problem of “food deserts” across the Commonwealth and aimed to provide greater access to fresh, nutritious foods to the 1.7 million Virginians (including 480,000 children) who live in low-income communities with limited supermarket access. Through the creation of a public-private partnership leveraging state dollars with private money, the VGIF will provide one-time, low-interest loans to encourage grocers to open or renovate stores in underserved communities.

Senator Bill Stanley’s and Senator Rosalyn Dance’s VGIF bill, [SB 999 \(Stanley\)](#), passed the Senate unanimously on January 24 before being referred to the House Appropriations Committee. Even before the budget proposals were announced, SB 999 faced great odds, as the Appropriations Committee quickly killed Delegate Delores McQuinn’s VGIF bill, [HB 1858 \(McQuinn\)](#), earlier this session. Now, with no funding for the VGIF proposed, SB 999 is effectively dead on arrival.

While the VGIF may have met the same fate this year as it did in 2018, both Senator Stanley and Delegate McQuinn are likely to continue to pursue this idea and reintroduce legislation in 2020.

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

## Land conservation bill heads to House floor with a fix

[HB 2755 \(Fariss\)](#), which seeks to make it easier to preserve open-space lands, has advanced out of the House Agriculture, Chesapeake and Natural Resources Committee and will be heard on the House floor.

As introduced, the bill initially sought to eliminate a key provision of Code of Virginia relating to [Conservation Easements](#), striking the entirety of § 10.1-1010(E), which provides that “[n]o conservation easement shall be valid and enforceable unless the limitations or obligations created thereby conform in all respects to the comprehensive plan at the time the easement is granted for the area in which the real property is located.”

VACo met with Delegate Matthew Fariss several times and expressed concerns that this was far too broad a change and would result in significant problems for counties, particularly if conservation easements are granted in what had been designated as high growth areas in the counties’ comprehensive plans.

Ultimately, after discussions with VACo and several land conservation organizations, including The Nature Conservancy, Delegate Fariss amended his bill. As amended, the bill still strikes § 10.1-1010(E) but now inserts the following language: “The use of the real property for open-space land shall conform to the official comprehensive plan for the area in which the property is located.”

As amended, HB 2755 reported from Committee 21-0 and will be voted on by the full House this week.

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

## Rural stormwater bill passes Senate, heads to House

Senator Emmett Hanger’s rural stormwater bill, [SB 1328 \(Hanger\)](#), unanimously passed the Senate late last week and will now be heard in the House of Delegates.

The bill authorizes the Department of Environmental Quality (DEQ) to provide Stormwater Local Assistance Fund (SLAF) grants to smaller, rural localities that are not regulated under municipal separate storm sewer (MS4) permits for stormwater management. 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. Furthermore, SB 1328 directs the DEQ to prioritize grants for stormwater management projects that are regional in scope.

Prior to its passage, SB 1328 was amended in the Senate Agriculture, Conservation and Natural Resources Committee to provide that 1) no more than 20 percent of SLAF moneys could be awarded to non-MS4 localities and 2) if any SLAF moneys remain after the DEQ has completed its annual solicitation of grant applications and made authorization decisions for non-MS4 localities, any remaining SLAF moneys shall be made available for MS4 localities.

SB 1328 has been referred to the [House Agriculture, Chesapeake and Natural Resources Committee](#).

**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](#)