

Capitol Contact

Virginia General Assembly

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Tuesday, January 14, 2020

Workers' compensation first responder presumption legislation advances to Senate Finance and Appropriations Committee

On January 13, the Senate Commerce and Labor Committee took up legislation that proposes adding several types of cancer to the list of illnesses presumed to be incurred in the course of employment for firefighters, as well as additional legislation applicable to multiple categories of first-responders that proposes adding post-traumatic stress disorder (PTSD) as a presumptive illness assumed to be incurred in the course of normal employment. Both categories of legislation were reported and referred to Senate Finance and Appropriations, and both have fiscal impact to local government.

The 2019 General Assembly passed legislation adding cancers of the brain, colon, and testes to the list of presumptive illnesses for firefighters. This legislation contained language that required the 2020 General Assembly to reenact the legislation upon consideration of a [study](#) published by the Joint Legislative Audit and Review Commission (JLARC) on Virginia's Workers' Compensation system in order to become law. Legislation addressing PTSD as a presumptive illness did not pass the General Assembly but was referred to JLARC as well.

At the time, VACo expressed concern to members of the General Assembly not about the intent of the legislation, but rather the potential fiscal impact to local governments through the rise of insurance costs needed to fund any additional liabilities created by the addition of these illnesses. Over the summer, VACo staff met with the JLARC team conducting the report to share our perspective on the issue. At its December meeting, JLARC released their [findings](#) and the potential fiscal [impact](#) of legislation.

[SB 9 \(Saslaw\)](#) 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. The bill also incorporates several recommendations from the JLARC study, which include reducing the years of service requirement for cancer presumptions for firefighters from 12 to five years in order to align more closely with national averages and eliminates the burden of proof requirement of firefighters for exposure to a toxic substance. The bill was amended in Committee at the request of the patron to raise the years of service requirement for firefighters for hypertension and heart disease. Though there is still likely to be a fiscal impact from this legislation, the addition of years of service requirements for hypertension and heart disease should be mitigatory. The Senate Commerce and Labor Committee incorporated similar legislation – [SB 58 \(Cosgrove\)](#), [SB 381 \(McPike\)](#), and [SB 531 \(Vogel\)](#) – into SB 9. The bill was reported and referred to Senate Finance and Appropriations Committee (14-1).

[SB 741 \(McPike\)](#) 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. Given the number and type of employees impacted by this legislation and the nature of PTSD workers' compensation claims, the potential fiscal impact to state and local governments if enacted could likely be several orders of magnitude greater than the addition of the cancer presumptions. [This chart of estimated annual premium costs per employee](#) published as an accompaniment to the JLARC report demonstrates this difference.

The Senate Commerce and Labor Committee reported and referred the bill to the Senate Finance and Appropriations Committee (12-3). The Committee also reviewed similar legislation [SB 924 \(Cosgrove\)](#), which was incorporated into [SB 561 \(Vogel\)](#) and reported and referred to Senate Finance and Appropriations Committee by a similar margin.

Though not opposed to the intent of the PTSD presumption bills, VACo staff expressed concern to the Patrons and Committee regarding the potential fiscal impact of the PTSD bills on localities. Similar legislation in the House has yet to be heard.

VACo Contact: [Jeremy Bennett](#)

Vehicle registration fee protections for localities

In [remarks](#) made presenting his 2020-2022 budget proposal, Governor Ralph Northam proposed reducing the state's vehicle registration fee by half. [Virginia Code](#) currently permits local governments to levy license fees on vehicle registration that shall not be greater than the annual fee amount imposed the state. This maximum amount varies by vehicle class, but for passenger vehicles weighing below 4,000 pounds, the state registration fee is \$40.75. Local governments can currently levy registration fees of their own up to that amount.

By proposing to halve the state's fee, many local governments would potentially see a reduction in revenues from their own vehicle registration fees as they would be prohibited by code from maintaining registration fees in excess of \$20 per vehicle. Furthermore, any local government with a current fee rate lower than that amount would be prohibited from raising future fee rates above \$20. Such limitations would impose significant and unexpected financial hardships on local governments, who already struggle with limited means of generating revenues to provide core services.

VACo staff contacted the Secretary of Transportation's office with our concerns and reviewed the Administration's introduced [legislation](#). We were pleased to see and receive confirmation that the proposed legislation maintains local governments' ability to levy vehicle registration fees at the amount it currently stands as of January 1, 2020. Localities in which the vehicle registration fee is lower than the maximum rate currently allowed by law will retain the ability to raise rates to the current maximum rate if they so choose in the future.

In order to ensure that this outcome survives the legislative process this session, VACo staff in collaboration with VML have secured patrons in both the House and Senate for budget amendments. If the language contained in the proposed amendments is included in the passed budget, this will provide additional security for local governments to retain their existing registration fee capacity.

VACo Contact: [Jeremy R. Bennett](#)

VACo supports bill to return authority to Counties to determine local tax incentives for large solar projects

[SB 800 \(Lewis\)](#) advances the sunset date of the state-mandated 80% tax exemption from Machinery and Tool Tax (M&T) for utility-scale solar projects greater than 20 megawatts (MW) from 2024 to 2021. This proposed change will allow counties to decide by local ordinance, as is allowed under [Virginia law](#), to determine at their discretion a lower M&T rate for projects greater than 20 MW in generating capacity.

The legislation has been assigned to the [Senate Finance and Appropriations Committee](#) where it may be considered as early as Tuesday, January 21.

Successful legislation supported by VACo in 2018 returned this authority to counties for projects 150 MW or larger in capacity in advance of the 2024 sunset date.

KEY POINTS

- Solar facilities generating greater than 20 MW and less than 150 MW in generating capacity can occupy anywhere from several hundred acres to more than two square miles and are in effect largescale power plants with oversized footprints.
- This bill allows localities, at their discretion, to provide a tax incentive for these larger installations.

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

Support needed for bill to improve Local Fiscal Impact review process

[SB 188 \(Peake\)](#) seeks to enhance the current process by which bills are reviewed for potential fiscal impacts on local governments. SB 188 would require bills that would mandate additional expenditures by local governments or reduce local revenues be filed by December 15. This would provide additional time for the Commission on Local Government and the local volunteers assisting them to complete their analyses before the bills would be heard. In the past, bills with a local fiscal impact were required to be introduced by the first day of the legislative session, but this deadline was repealed in 2010. SB 188 also directs the Commission on Local Government to work in cooperation with VACo and VML to develop improvements to the fiscal impact review process.

VACo appreciates the work of Senator Mark Peake and Louisa County Administrator Christian Goodwin on this legislation. VACo circulated a sample resolution to counties in December and encouraged Boards of Supervisors to adopt resolutions in support of legislation to provide additional time for review of bills with a local fiscal impact and is appreciative of the counties that have provided their resolutions to VACo.

VACo encourages members to contact their legislators, particularly if your legislator serves on the [Senate Rules Committee](#), to which SB 188 has been referred.

KEY CONTACTS

Senate Rules Committee: [Locke \(Chair\)](#), [Saslaw](#), [Howell](#), [Lucas](#), [Edwards](#), [Deeds](#), [Marsden](#), [Petersen](#), [Barker](#), [Favola](#), [Lewis](#), [Norment](#), [McDougle](#), [Vogel](#), [McPike](#)

VACo Contact: [Katie Boyle](#)

Helpful bill on jail costs moves forward

[SB 189 \(Peake\)](#) requires that the state compensate local jails for the cost of housing state-responsible inmates (individuals who have been convicted of a felony and committed to the Department of Corrections whose sentence is one year or more) at the actual cost of incarceration, rather than as provided in the Appropriations Act. VACo has historically supported efforts to provide more realistic levels of funding for the costs of housing inmates; although the state provides assistance through the Compensation Board for jail staff salaries and per diem payments, this funding has fallen short of needs. Jail per diems have not been increased since 2010, and the demands on jails are only expected to increase with the adoption of proposed behavioral health and medical care standards under consideration by the Board of Corrections. The Senate Rehabilitation and Social Services Committee heard the bill on January 10 and reported and referred it to Senate Finance and Appropriations Committee (renamed to reflect the matters that fall under its purview).

VACo Contact: [Katie Boyle](#)

Beneficial clean energy financing bill introduced

A bill has been introduced in the House that could help localities take advantage of creative clean energy financing mechanisms.

[HB 654 \(Mugler\)](#) authorizes the Department of Mines, Minerals and Energy (DMME) to sponsor a statewide clean energy financing program. More specifically, this legislation would enable DMME to engage with a private entity in order to develop and administer a statewide Commercial PACE program.

PACE (Property Assessed Clean Energy) is an innovative financing mechanism that enables low-cost and long-term funding for energy efficiency, renewable energy, and water conservation projects. The appeal of PACE is that it can cover up to 100% of a project's upfront hard and soft costs, and then can be repaid on the property tax bill over a period of up to 30 years, enabling longer payback periods that can be cash flow positive from day one. PACE financing is repaid as an assessment on the property's regular tax bill and is processed the same way as other local public benefit assessments (such as sidewalks or sewers).

So far in Virginia, several localities have enacted their own individual PACE programs. Arlington County was the first local government in the Commonwealth to establish a Commercial PACE program, and soon after Loudoun County and Fairfax County followed suit. While the programs in Arlington County and Loudoun County were designed for renewable energy and energy efficiency projects, Fairfax County's program is the first to include resiliency and stormwater measures.

Since these first PACE programs were rolled out, other localities have begun to develop their own PACE programs (list of localities [here](#)). Additionally, many more have expressed a desire for a statewide program that could be opted-in to. HB 654 will provide that means.

VACo will support this bill as it makes it way through the General Assembly this session.

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

Several Children's Services Act bills under consideration

Several bills have been introduced to provide additional flexibility in the use of Children's Services Act (CSA) funding to support youths with high-level needs in the public school setting. [HB 49 \(McNamara\)](#) and [SB 128 \(Suetterlein\)](#) are similar bills that would direct the Department of Education to develop pilot programs in two to eight local school divisions to identify the resources needed to support students who are currently educated in private schools pursuant to an Individualized Education Program if those students were to be served in the public school environment instead, to include making recommendations for redirecting federal, state, and local funds, including CSA funds, to provide the appropriate services and supports. The pilot projects would last up to four years and reports would be required at the two- and four-year marks on the programs' successes and challenges encountered. [HB 762 \(Cole\)](#) and [SB 135 \(Stuart\)](#) apply to Planning District 16 and would allow CSA funds to support the services for children who transfer from a private special education day placement to a public school special education program, when that public program is able to provide comparable services.

[SB 190 \(Peake\)](#) would provide that services in the public school setting could be funded through CSA funds. VACo spoke in support of the bill when it was heard on January 10 and narrowly reported from the Senate Rehabilitation and Social Services Committee and referred to the [Senate Finance and Appropriations Committee](#). Last year, a similar bill was considered by the Senate Finance Committee, which reported a version specifying that the use of CSA funds was allowed for specific wrap-around services that support students' ability to remain in the public school setting. That version passed the Senate but failed in the House Appropriations Committee.

Some members of the Senate Rehabilitation and Social Services Committee expressed reluctance to move forward with a broad change to the CSA funding structure while the Joint Legislative Audit and Review Commission (JLARC) is undertaking both a study of special education overall and a study of CSA. VACo

sent a letter to JLARC last year encouraging that the specific issue of how school divisions can best be supported to serve children with high-level needs be an area of focus in JLARC's studies.

VACo Contact: [Katie Boyle](#)

Senate Committee delays vote on bill to require written notice to adjoining property owners of zoning decisions

The [Senate Local Government Committee](#) postponed for a week a vote on [SB 589 \(Hanger\)](#), which requires zoning administrators to provide notice of all decisions and determinations to property owners adjacent to or across the road from the subject property. Specifically, the legislation requires such notice to be “... *delivered by first-class mail to the agent or occupants of abutting property and property immediately across the street or road from the property affected.*”

Concerns were raised about the larger number of written decisions and determinations that a single zoning administrator may make annually when responding for requests to do so and the burden that would create to comply with the legislation should it become law. The patron of the bill agreed to work on limiting the scope of the number of such determinations that trigger the notice requirement and agreed to bring the bill before the committee on Monday, January 20 for reconsideration.

If you have any thoughts or input to offer on this measure, please contact VACo staff.

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

Troubling pesticide restriction bill introduced

A bill restricting a locality's use of pesticides for certain bug infestations has been introduced for a second year.

[HB 1204 \(Tran\)](#) seeks to prohibit localities from spraying pesticides intended to suppress an infestation of the fall cankerworm on any property unless the owner of the property requests such spraying through an opt-in program operated by the locality. Currently, state law allows property owners to opt *out* of such spraying, so the change introduced by this bill would put a new burden on local governments with spraying programs. Today, only a few localities have reported issues with cankerworms and even have a spraying program, but beyond the

impact this bill would have on those localities, there is additional concern about the troubling precedent that this bill may set.

As previously noted, this bill is not the first time this issue has been raised in the General Assembly. In 2019, Delegate Tran introduced [HB 2495](#), a broader bill that sought to entirely prohibit localities from spraying pesticides intended to suppress an infestation of the fall cankerworm during the period between March 1 and August 1. Ultimately, a substitute was introduced and accepted for this bill that did away with this March through August prohibition and instead introduced the opt-out measure that has been reintroduced this year. By a narrow 5-4 vote along party lines, this measure was defeated.

If you have any thoughts or input to offer on this measure, please contact VACo staff.

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

Urban fertilizer program bill to be heard in Senate committee

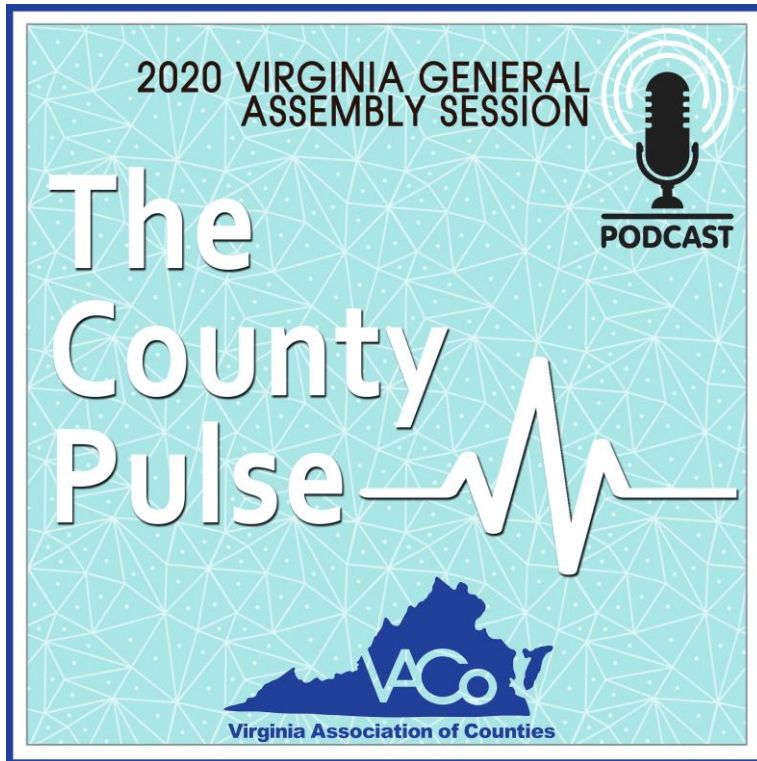
A bill introduced by Senator Monty Mason pertaining to the use of nonagricultural fertilizers was heard today in the Senate Agriculture, Conservation and Natural Resources Committee.

[SB 849 \(Mason\)](#) authorizes local governments to enter into agreements with the Commissioner of the Virginia Department of Agriculture and Consumer Services (VDACS) to provide oversight and data collection assistance related to the requirements of certified lawn fertilizer contractor-applicators. This bill is one of the Northam Administration's Chesapeake Bay Watershed Implementation Plan (WIP) bills and is simply designed to give a local government the option to work with the Commissioner of VDACS to help administer an urban fertilizer program. It is purely permissive in nature.

In addition to the local option to work with VDACS, the bill also reduces from 100 to 50 the total number of acres of nonagricultural land to which a contractor-applicator may apply lawn fertilizer and lawn maintenance fertilizer annually without submitting an annual report to the Commissioner. The bill also increases from \$250 to \$1,000 the civil penalty imposed on a contractor-applicator for a violation of applicable regulations.

VACo appreciates working with the Administration to ensure that the authority to enter into agreements with VDACS to administer an urban fertilizer program was drafted as a local option, not a mandate.

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



General Assembly Legislative Briefs January 10 | Episode 1



[Listen to the Podcast](#)

VACo's VACo Executive Director Dean Lynch and Lancaster County Supervisor Jason Bellows discuss the start of the 2020 General Assembly Session and issues of interest to Counties.

Key Dates for 2020 General Assembly Session

The House and Senate adopted the procedural resolution governing the schedule for the 2020 General Assembly session on January 10, 2020. Key dates for the 2020 Session are as follows:

- **January 8:** General Assembly convened at noon. Bills that were “prefiled” were due to be submitted by 10 a.m. Bills affecting the Virginia Retirement System or creating or continuing a study were required to be filed before adjournment of

their respective chambers of introduction.

- **January 10:** Deadline for submission of budget amendments by 5 p.m.
- **January 17:** Deadline for remaining bills to be filed at 3 p.m. (there are some exceptions, such as when legislation is granted unanimous consent to be introduced after the deadline).
- **February 11:** “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bill)
- **February 16:** House Appropriations and Senate Finance and Appropriations Committees report their respective budgets by midnight.
- **February 20:** Deadline for each chamber to complete work on its budget.
- **February 26:** 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.
- **March 2:** Deadline for committee action on bills at midnight.
- **March 7:** Scheduled adjournment *sine die*.
- **April 22:** Reconvened session to consider gubernatorial amendments and vetoes.

VACo Contact: [Katie Boyle](#)

Advocate for your locality at the VACo Local Government Day | In Partnership with VML and VAPDC



February 6, 2020 | Omni Richmond Hotel

100 S 12th Street | Richmond, VA 23219

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

Join us at the VACo/VML/VAPDC Local Government Day on Thursday, February 6!
This is our day to advocate for localities at the 2020 General Assembly Session.

The event kicks off at noon. Governor Ralph Northam has been invited to speak. In addition, VACo and VML staff will provide legislative reports on the major issues facing Localities in the 2020 General Assembly Session. Attendees will spend the afternoon meeting and advocating their General Assembly representatives. There's a reception for VACo members and state legislators at 530pm.

- 930am** VACo Board of Directors' Meeting
- 11am** Registration
- 1130am** Box Lunch
- Noon** Governor Ralph Northam (Invited) | VACo and VML Staff Reports
- Afternoon** Visit Capitol and Lobby Legislators
- 530pm** Reception

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 [2020 Legislative Program](#). We will distribute the Local Government Day Bulletin at the event.

Local leaders will have the opportunity to advocate on behalf of localities throughout the day and network and share information at a reception in the evening. Be a part of the legislative process at the 2020 General Assembly Session.

Register for the event at [VACo Local Government Day Online](#) or fax the [Registration Form](#) to 804.788.0083. Also, here's how you can book a room at the [Omni Richmond Hotel](#). **Be sure to book your room soon as the deadline for this special rate is January 17, 2020.**

VACo Contact: [Valerie Russell](#)