

Capitol Contact

Virginia General Assembly

Virginia Association of Counties • 1207 E. Main Street, Suite 300 • Richmond, VA 23219
www.vaco.org • 804.788.6652



Tuesday, January 21, 2020

Budget amendments introduced at VACo's request

VACo worked with legislators to introduce a package of budget amendments to address several priority items for local governments. The deadline for member amendments was Friday, January 10. Amendments were posted online on Thursday, January 16, and the Senate Finance and Appropriations Committee heard presentations from patrons that afternoon; the House Appropriations Committee is planning to take up amendments this week. The “money committees” are scheduled to report their respective budgets on Sunday, February 16.

VACo appreciates General Assembly members' efforts to ensure that local government priorities are part of the budget discussions in each chamber. Below is a summary of the amendments introduced at VACo's request, many of which are joint requests with the Virginia Municipal League.

Hundreds of other amendments were filed, including amendments on shared priorities that were requested by partner organizations, and VACo will be providing an update on these amendments in a future Capitol Contact.

Elimination of K-12 Support Position Cap

[Item 136 #1h \(Mugler\)](#)/[Item 136 #1s \(Deeds\)](#)/[Item 136 #2s \(Lucas\)](#) direct the Secretary of Education and the Secretary of Finance, in consultation with the appropriate legislative committee chairs, to develop a plan to eliminate the cap on recognition of support positions in the Standards of Quality and instead revert to recognition of staffing levels in accordance with prevailing local practice. The plan must be submitted before the next legislative session and contain a schedule for full elimination of the cap by FY 2025. VACo has a long-standing position in favor of eliminating the support cap, which places an artificial limitation on the number of support positions the state recognizes; these positions, such as school social workers and IT professionals, play an important role in the operation of a school system.

Removal of Certain K-12 Positions from the Support Position Cap

[Item 145 #23h \(Davis\)](#)/[Item 145 #8s \(Barker\)](#)/[Item 145 #10s \(Ebbin\)](#) remove certain student support positions, such as school psychologists and school social workers, from the support cap and provide the state's share of funding staffing for these positions based on prevailing local practice, as was done before the imposition of the cap. [Item 145 #8h \(Heretick\)](#)/[Item 145 #28h \(Hayes\)](#)/[Item 145 #7s \(Spruill\)](#)/[Item 145 #9s \(Boysko\)](#) are similar.

Funding for sheriffs' departments with law enforcement responsibility

[Item 68 #3h \(LaRock\)](#)/[Item 68 #4h \(Delaney\)](#)/[Item 68 #3s \(Bell\)](#) and [Item 75 #1s \(Bell\)](#) provide funding for 237 sheriffs' deputies in FY 2021 and an additional 21 deputies in FY 2022 in order to meet the statutory staffing ratio of 1 deputy per 1,500 in population in localities in which the sheriff has primary responsibility for law enforcement. This staffing ratio has not been funded since FY 2008.

Jail per diem payments

[Item 69 #1h \(Hope\)](#)/[Item 69 #1s \(Lucas\)](#) provide an 18 percent increase in jail per diem payments to reflect the equivalent increase in inflation (as measured by the Consumer Price Index) since the last time per diem payments were adjusted (in 2010). Additional resources will be necessary for local and regional jails to comply with behavioral health and medical care standards that are currently under review by the Board of Corrections.

Assistance to localities with election security requirements

[Item 83 #1h \(Sickles\)](#) [amendment proposed to the "caboose" FY 2020 budget]/[Item 83 #1s \(Deeds\)](#) [amendment proposed to the "caboose" FY 2020 budget]/[Item 86 #6s \(Deeds\)](#) [amendment proposed to the biennium budget] express the General Assembly's intention that the most recent allocation of federal funding to Virginia under the Help America Vote Act, which was included in the federal budget agreement signed in December 2019, would be provided to localities to assist them in complying with election security standards adopted as a result of legislation enacted in 2019 or to assist with future security standards adopted by the State Board of Elections.

Eligibility for Virginia Telecommunication Initiative Funding

[Item 114 #5h \(Bloxom\)](#)/[Item 114 #1s \(Lewis\)](#) broaden eligibility for Virginia Telecommunication Initiative funding such that a local government or other public entity could qualify for funding. The amendments also provide for local government participation on the broadband telecommunications advisory group required to be convened by the Chairman of the Virginia Growth and Opportunity Board.

Service charges in lieu of taxes for state correctional facilities

[Item 402 #6h \(Tyler\)](#)/[Item 402 #26s \(Ruff\)](#) provide funding for service charges levied in lieu of property taxes on state correctional facilities and eliminate budget language that overrides the existing statutory mandate for the Department of Corrections to pay these service charges.

Aid to Localities with Police Departments

[Item 408 #1h \(Avoli\)](#)/[Item 408 #1s \(Marsden\)](#) provide additional funding for localities

with police departments (“HB 599”) in accordance with the statutory requirement for this funding to grow in tandem with expected growth in state General Fund revenues. The introduced budget level-funds HB 599 appropriations despite expected growth in each year of the biennium (4.5 percent in FY 2021 and 3.7 percent in FY 2022).

Local vehicle license fees

[Item 438 #2h \(McQuinn\)](#)/[Item 438 #2s \(Marsden\)](#) provide that localities may continue to levy vehicle license fees up to the maximum state rate allowed as of January 1, 2020, regardless of any legislation enacted by the 2020 General Assembly that may adjust the state fee. The Governor has proposed cutting the state rate in half; as local fees have been limited to the state maximum rate by statute, there has been concern that reducing the state fee would jeopardize existing local fees. The Administration has assured VACo that its intent is to preserve local authority to impose license fees at the current maximum state rate, and the omnibus transportation funding bill as introduced contains such language; the budget amendment is intended as an additional layer of protection for local fees.

“Orphan” drainage outfalls

[Item 430 #2h \(Tyler and Brewer\)](#)/[Item 430 #1s \(Lucas\)](#) direct the Secretary of Transportation and the Secretary of Natural Resources, in consultation with affected counties, to evaluate the prevalence across the state of drainage outfalls that originate from roads maintained by the Virginia Department of Transportation but do not have an entity assigned to maintain them, and recommend cost-effective approaches to fund maintenance of these “orphan” outfalls.

Preservation of Communication Sales and Use Tax Trust Fund

[Item 3-1.01 #1h \(Plum\)](#)/[Item 3-1.01 #3s \(Ebbin\)](#) protect the Communications Sales and Use Tax Trust Fund from further erosion by eliminating a proposed transfer of \$2 million per year from the Trust Fund to the state General Fund. When localities agreed to the restructuring of local telecommunications taxes in 2006 and these taxes were consolidated into a single tax collected by the state, it was understood that these revenues were to be held in trust for localities, not used for general state purposes. In 2018, there were savings in the telecommunications relay contract, which is funded “off the top” of the Trust Fund in accordance with statute; rather than distribute the savings to localities, the General Assembly swept \$2 million per year into the General Fund. This amendment reverses that transfer in the 2020-2022 biennium.

VACo Contact: [Katie Boyle](#)

Bill freezing BPOL rates fails in House Finance Subcommittee

Members of House Finance Committee’s Subcommittee #2 expressed sympathy with the intent of [HB 948 \(Webert\)](#), which would have prohibited localities imposing license taxes (BPOL) from increasing their rates beyond the rate

imposed as of January 1, 2020, and barred any locality not currently imposing BPOL taxes from doing so in the future. However, subcommittee members expressed reservations about restricting BPOL as a local revenue source without providing localities with an alternative, and ultimately tabled the measure. VACo spoke in opposition to the bill.

The subcommittee also took up [HB 309 \(Bloxom\)](#), which would allow localities to impose transient occupancy taxes on accommodations within state parks to the same extent that those taxes could be levied on room rentals and travel campgrounds that are privately owned. The subcommittee recommended reporting this bill. It also recommended reporting [HB 62 \(Hope\)](#), which would remove the sunset clause from the statute permitting Arlington County to impose an additional 0.25 percent transient occupancy tax, which is dedicated to tourism promotion. Other grants of special authority to impose transient occupancy taxes are not restricted by sunset clauses. The subcommittee also looked favorably on [HB 1270 \(Batten\)](#), which would repeal the additional sales and use tax imposed in the Historic Triangle in 2026 unless the tax is approved via referendum in York County, James City County, and the City of Williamsburg.

Subcommittee members were supportive of [HB 342 \(Bell\)](#), which intends to provide an exemption from meals taxes for small sellers at roadside stands and farmers' markets, but suggested some revisions to the bill's language to narrow its application. The bill will be placed on a future subcommittee docket.

VACo Contact: [Katie Boyle](#)

Public employee collective bargaining legislation and other measures seek to transform employee/employer relations

As the deadline to file all bills and joint resolutions passed on Friday, January 17, several bills await discussion in committee with the potential to significantly change the nature of public employer/employee relationships across the Commonwealth. Some of the most impactful of these bills concern collective bargaining and public employees' ability to strike.

Collective bargaining is the negotiation process between an employer and a union or association comprised of workers to govern the terms and conditions of the workers' employment. Public employees and their would-be-representatives are excluded from the National Labor Relations Act and are instead subject to state and local laws governing collective bargaining. The [Code of Virginia](#) currently prohibits collective bargaining for public employees in Virginia but does allow them to form associations to promote their interests. Virginia is one of several states that prohibits collective bargaining.

[HB 582 \(Guzman\)](#) and [SB 1022 \(Boysko\)](#) repeal the existing prohibition on collective bargaining by public employees and create the Public Employee Relations Board. This three-member body appointed by the Governor and approved by the General Assembly would be responsible for determining eligible bargaining units and certifications for the elections of employee bargaining representatives. These representatives would then be tasked with negotiating the terms of employment for their members with their public employers. If impasses occur between employers and employee representatives, the disputes would then be subject to arbitration by representatives of the Board. The legislation still determines that striking government employees who willfully refuse to perform their duties will have been deemed to have terminated their employment. This legislation would apply to state and local governments and their employees, with certain exceptions. Interestingly, the legislation exempts employees of the General Assembly from the provisions of the bills.

Two other bills, [HB 327 \(Levine\)](#) and [SB 939 \(Saslaw\)](#), have been filed that do not mandate collective bargaining, but provide state and local governments the options of engaging in collective bargaining if they so choose. SB 939 also potentially authorizes additional advocacy actions beyond what is currently provided for in the [Code](#), for employee organizations in localities that have adopted collective bargaining by ordinance.

Leaving nothing to doubt, [HB 67 \(Carter\)](#) specifically authorizes non-law-enforcement public employees to engage in strikes without having been deemed to have terminated their employment. This would represent a major departure from existing Virginia public employer/employee relations.

In addition to bills specifically impacting public employees and employers, several “Right-to-Work” related bills have been introduced this session. Right-to-Work provides workers with the choice of whether to join a union or employee representative association. Repealing this section of [Code](#), as [HB 153 \(Carter\)](#) does, could allow membership in an union or employee representative association to be a condition of employment. [SB 426 \(Saslaw\)](#) allows employers, after entering into a collective bargaining agreement with a labor union or labor organization, to require certain nonmember employees to pay “fair share fees” to the union or organization as a condition employment.

VACo opposes any effort to mandate collective bargaining for public employees.

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

VACo opposes bill to cap liens for unpaid water and sewer bills

[SB 826 \(McDougle\)](#) proposes a dollar limit on the lien a locality may place on real estate for unpaid water and sewer bills of tenants or lessees. Under current law such lien may be “up to three months of delinquent water and sewer charges.” The bill as introduced proposes to cap that amount at \$200. VACo, VML and water and waste authorities spoke in opposition to the measure in the [Senate Local Government Committee](#) on January 20. The bill was amended in committee to raise the cap to \$300 and passed on a [14 to 1 vote](#).

SB 826 will be voted on by the full Senate later this week. **Contact your [Senators](#) Now to Oppose SB 826.**

KEY POINTS

- Placing a dollar limit on the lien for three months of unpaid water and sewer bills will reduce revenues and may result in a fiscal liability to meet debt obligations for capital improvements.
- To meet potential unfunded liabilities counties will be forced to either appropriate other revenue or raise utility rates.

KEY CONTACTS

[Senate of Virginia](#)

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

Problematic stormwater fee waiver bill introduced

A troubling stormwater bill that has been defeated numerous times in previous years has been refiled for the 2020 session. [SB 1067 \(Kiggans\)](#) provides that localities shall provide for full waivers of certain stormwater charges for public use airport runways and taxiways.

VACo has concerns with this legislation.

- Such an exemption will have a severe fiscal impact on a locality. Given their nature and their sheer size, airports are large contributors to water pollutants, and thus if they are exempted from their stormwater fees, those costs will be

shifting to other ratepayers who in turn will have to pay a larger share.

- Legislation like this will only serve to open the door for other special interests seeking exemptions from stormwater fees. In fact, for this reason, the General Assembly has rejected this very bill before as well as similar bills seeking exemptions for churches and railroads.

SB 1067 has been referred to the [Senate Agriculture, Conservation, and Natural Resources Committee](#) but has not yet been placed on a docket.

VACo will continue to monitor SB 1067 and plans to oppose the bill as introduced.

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

Constitutional Amendments requiring personal property tax exemption for disabled veterans reintroduced; helpful bills attempt to mitigate effect of real property tax exemptions on localities

Constitutional amendments that would mandate an exemption from personal property taxes for one vehicle owned by veteran with a 100 percent service-connected, permanent, and total disability have been reintroduced this year as [HJ 103 \(Helmer\)](#), [SJ 33 \(Reeves\)](#), and [SJ 58 \(Morrissey\)](#). Constitutional amendments must pass the General Assembly twice in identical form – once before and once after an intervening election – before being placed before the voters for approval via referendum. If the amendments and the accompanying bills directing the holding of the referendum pass in 2020, the amendments will be on the ballot in the November 2020 general election and, if approved, would take effect January 1, 2021.

VACo opposed the passage of the amendments as a mandate in 2019, as localities already have the ability to set a different tax rate for a motor vehicle owned by a veteran with certain service-connected disabilities, and several localities are already using this authority to provide tax relief, but the version of the amendments emerging from conference included the mandatory language.

VACo has also raised concerns about expanding mandatory tax relief to another type of property in light of the growing costs to localities of the mandatory real estate tax exemptions for disabled veterans and their surviving spouses and the surviving spouses of servicemembers who are killed in action. Information

compiled by the Commissioners of the Revenue in 2019 indicated that these exemptions cost localities approximately \$53 million in 2018.

VACo was encouraged to see legislation introduced this session that attempts to mitigate the effect of these exemptions on the local property tax base. [HB 363 \(Cole, M.\)](#) and [SB 143 \(Stuart\)](#) provide that the state would reimburse localities in which more than 1 percent of the taxable real estate is exempt pursuant to the mandatory exemptions for disabled veterans and surviving spouses. Localities would document the amount of affected property in an application to the Auditor of Public Accounts, who would publish an annual list of affected localities. The Governor would be required to include in the introduced budget a proposed appropriation for a state subsidy for qualifying localities (the subsidy would exclude the amount of foregone real estate tax revenue attributable to 1 percent of real estate being tax-exempt pursuant to the mandatory exemptions). [HB 1496 \(Mugler\)](#) is a similar bill, but does not include the 1 percent threshold for a locality to qualify for the state subsidy.

VACo supports these bills and spoke in favor when SB 143 was heard in the Senate Finance and Appropriations Committee on January 21. Members expressed a willingness to consider the issue but were uncomfortable with an indeterminate potential fiscal impact to the state; the bill was continued to 2021. HB 363 and HB 1496 have been referred to the House Finance Committee.

VACo Contact: [Katie Boyle](#)

Goat grazing bill hits snag in committee

A bill designed to allow local governments to use goat herds to control overgrowth along stream banks hit a snag in its first committee hearing and will be revisited again this week.

[SB 648 \(Boysko\)](#) authorizes a local government that procures and utilizes goats for the temporary grazing of stream buffers to remain in compliance with a resource management plan for pasture land. Such compliance qualifies the locality for matching grants for agricultural best management practices provided through the Virginia Agricultural Best Management Practices Cost-Share Program. The bill also clarifies that such grazing is not prohibited by certain provisions of the State Water Control Law.

The bill seeks to remedy a problem first encountered by the Town of Leesburg in Loudoun County. There, the Town must keep a creek clear of weeds and overgrowth to remain in compliance with federal flood standards, but they found that it was not feasible to keep clear via manual labor due to safety hazards and unstable terrain and that spraying herbicides was having an adverse effect on wildlife. So, they turned to a practice called “flash grazing.”

Flash grazing is the practice of releasing a high concentration of livestock on a tract of land and allowing them to graze for a short period of time. In this case, the town borrowed a herd of goats from a local farmer and allowed them to graze the banks of the stream for two weeks.

While flash grazing took care of the overgrowth problem, it did however raise a question as to the legality of the practice, as the Commonwealth works to prevent livestock – and livestock waste – from entering creeks and streams to improve water quality. Thus, Senator Jennifer Boysko introduced SB 648.

While the Senate Agriculture, Conservation and Natural Resources Committee was receptive to and generally supportive of the idea, there was concern that the bill, as drafted, was too broad. Committee Members expressed hesitancy to authorize flash grazing carte blanche as they were worried about a program without a time limit. After healthy discussion, the Committee asked that Senator Boysko allow her bill to “go by for the week,” so she could draft new language that would permit a locality to adopt an ordinance for flash grazing rather than simply allow the practice wholesale.

VACo will continue to monitor the progress and evolution of this bill as it returns to the docket this week.

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

Tree preservation bill survives first cut

A bill directing the Department of Environmental Quality (DEQ) to convene a stakeholder advisory group for the purpose of studying the planting or preservation of trees as a land cover type and as a stormwater best management practice (BMP) has cleared its first legislative hurdle, passing out of subcommittee on Monday, January 20.

[HB 520 \(Bulova\)](#) was the result of several months of stakeholder conversations and negotiations between Arlington County, the Home Builders Association of Virginia (HBAV), VACo, and VML about urban forestry and ways local governments could embrace tree preservation or replanting as a potential stormwater BMP and help meet the goals of the Chesapeake Bay Phase III Watershed Implementation Plan (WIP). While many paths forward were discussed, it was eventually agreed that the best course of action was to assemble a workgroup to further study this issue. HB 520 convenes this workgroup and directs the DEQ to report the group’s findings by November 1, 2020, and to include a recommendation as to whether the planting or preservation of trees shall be deemed a creditable land cover type or BMP and, if so, how much credit shall be given for its optional use. As drafted, the bill listed future stakeholders as

development and construction industry representatives, environmental technical experts, local government representatives, and others and that technical assistance shall be provided to the DEQ by the Department of Forestry and the Department of Conservation and Recreation.

Members of the [House's Agriculture, Chesapeake and Natural Resources Committee's Chesapeake Subcommittee](#) made two minor, friendly amendments to the bill as it was debated. First, HB 520 was amended to include the Virginia Forestry Association as a workgroup stakeholder. Second, the bill was amended to include language clarifying that the purview of the workgroup would only pertain to *urban* forestry.

Ultimately, HB 520 received broad support before the subcommittee. VACo was pleased to speak on behalf of the bill and was joined by representative from Arlington County, the HBAV, and the Chesapeake Bay Foundation (CBF). By a unanimous, 8-0 vote, the Chesapeake Subcommittee ultimately recommended HB 520 to report to the full House Committee on Agriculture, Chesapeake and Natural Resources.

HB 520 will now be heard by the House's Agriculture, Chesapeake and Natural Resources Committee on Wednesday, January 22.

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

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](#)