

Capitol Contact

Virginia General Assembly

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Thursday, January 23, 2020

Equal taxing authority bills introduced; VACo's overarching legislative priority

VACo is working with legislators in both chambers and both parties on legislation to provide parity between city and county taxing authority, a long-standing priority for the Association. As funding partners with the state in the provision of core government services such as K-12, public health, and public safety, counties need tools to raise the revenues required to meet their responsibilities, but are limited by an outdated tax structure, leaving counties heavily reliant on real estate taxes. Additional funding options, which are currently available to cities, will assist counties in responding to the challenge of meeting increasingly complex needs, such as securing elections against cybersecurity threats, modernizing the E-911 system, and maintaining critical infrastructure.

[HB 785 \(Watts and Kilgore\)](#), [SB 484 \(Favola\)](#), and [SB 588 \(Hanger\)](#) would all provide for general equalization of taxing authority. SB 588 was initially assigned to the Senate Local Government Committee, where it was reported and re-referred to the Senate Finance and Appropriations Committee, to which SB 484 has also been referred. Department of Housing and Community Development Director Erik Johnston spoke in favor of SB 588 at its hearing in Senate Local Government; VACo is grateful to have the support of the Northam Administration for the bill.

In addition to these general equalization bills, VACo supports several pieces of legislation addressing specific facets of county taxing authority. [HB 977 \(Krizek\)](#), [SB 682 \(Mason\)](#), and [SB 799 \(Lewis\)](#) would eliminate the referendum requirement for the imposition of a meals tax and the 4 percent rate cap in counties. [SB 921 \(Locke\)](#) would extend the authority to impose local cigarette taxes to all counties. HB 977 has been referred to the House Finance Committee, and the Senate bills have been referred to the Senate Finance and Appropriations Committee.

VACo is appreciative of the Counties that have adopted resolutions in support of equal taxing authority and shared them with their legislators. Please continue to talk with your delegation about the importance of revenue diversification for your county and encourage their support for these bills.

[Support Equal Taxing Authority for Counties Info](#)

VACo Contact: [Katie Boyle](#)

VACo-supported peer-to-peer vehicle rental bills debut

Two sets of VACo-supported peer-to-peer vehicle rental bills have been introduced in the General Assembly and will be heard by their respective committees soon. [SB 749 \(Cosgrove\)](#) and [HB 891 \(Sickles\)](#) establish taxation, insurance coverage, sale of insurance, disclosure, safety recall, airport operation, and recordkeeping requirements for peer-to-peer vehicle sharing platforms, while [SB 750 \(Cosgrove\)](#) and [HB 892 \(Sickles\)](#) provide that peer-to-peer vehicle sharing platforms, as defined in the bill, are renters for the purposes of taxation.

Peer-to-peer vehicle rentals involve a vehicle owner listing a vehicle for rent through an electronic marketplace, which sometimes provides insurance, dispute resolution, or other services, but is not involved in the physical exchange of the vehicle. A prospective renter reviews vehicle selections on the marketplace platform and chooses a vehicle. The rental platform facilitates the transaction between owner and renter, who then make arrangements for the renter to obtain the vehicle and keys and to return the vehicle after use. In many ways, it operates much like an “Airbnb” system, but for cars.

Currently, peer-to-peer vehicle companies operate in Virginia in an unregulated and untaxed environment.

There are no defined protections for the owner who shares his vehicle or the person who rents the vehicle from the Peer-to-Peer vehicle sharing platform. In the event of an accident, it is unclear whose insurance company pays. There is no regulatory control over business transactions occurring at major airports, and airport authorities lack a clearly defined structure to regulate where or when these transactions take place.

Additionally, there is not a defined process for the collection of the Commonwealth’s 10 percent Motor Vehicle Rental Tax (MVRT) or if they do, there is no guarantee that the taxes collected will be remitted to the State to support localities and vital transportation projects. As confirmed by the Virginia Department of Taxation’s Fiscal Impact report on SB 749, “. . . peer-to-peer shared vehicles and commercially owned rental vehicles are currently subject to

the full 10 percent Motor Vehicle Rental Taxes. However, compliance within the peer-to-peer rental industry is extremely low.”

To address the above concerns, the Department of Motor Vehicles hosted a series of meetings last summer on Peer-to-Peer vehicle sharing. Subject matter experts worked in workgroups on the insurance, registration, and taxation issues. While the workgroups made significant progress, there was no agreement on a final consensus-driven legislative fix.

Recognizing these issues, VACo has partnered with a number of other concerned stakeholders, including Enterprise, Hertz, the American Car Rental Association, and several regional/local governmental associations, to support comprehensive legislation that addresses all of the aforementioned issues. The bills

- Limit peer-to-peer shared rental vehicles to private passenger vehicles only. This ensures that owners of fleets of vehicles cannot circumvent laws that regulate the rental car industry;
- Provide clarity with respect to insurance liability and protections to Virginia citizens who share their vehicle through a peer-to-peer vehicle sharing platform;
- Permit Virginia airports to regulate peer-to-peer vehicle sharing platforms and their use of airport property; and
- Require peer-to-peer vehicle sharing platforms to comply with Virginia’s tax laws and to register, collect, and remit the same taxes (10 percent motor vehicle rental tax (MVRT) rate) that any other company renting vehicles must remit to the Commonwealth; and
- Solve a tax collection problem noted by the Department of Taxation and prevent any loss of essential tax revenues that are dedicated to transportation projects and Virginia’s localities.

The peer-to-peer vehicle rental industry has also introduced legislation – [SB 735 \(Newman\)](#) and [HB 1539 \(Jones\)](#). These bills are problematic for several reasons. First, they seek to incorporate peer-to-peer rentals into the ridesharing chapter of the Code, which incorrectly gives the impression that peer-to-peer renting is not a commercial, taxable venture, which it is. Second, these bills create a new, much lower tax for peer-to-peer rentals – instead of the 10 percent MVRT, it proposes a 4 percent rate, which affords just 2 percent to locals instead of the 4 percent from the MVRT.

Currently, both SB 749 and SB 735 are scheduled to be heard in the Senate Commerce and Labor Committee on Monday, January 27.

VACo members are encouraged to contact their Senators on the [Senate Commerce and Labor Committee](#) to support SB 749 (Cosgrove) but to oppose SB 735 (Newman).

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

VACo expresses concerns over problematic PSAP dispatcher bill

[HB 727 \(Hope\)](#) mandates that all 911 Public Safety Answering Point (PSAP) provide training and equipment to every dispatcher in telecommunicator cardiopulmonary resuscitation instruction (TCPR) as well as Emergency Medical Dispatch (EMD) by January 1, 2022, and January 1, 2024, respectively. Though not opposed to the intent of the legislation, VACo staff expressed concerns over the potential fiscal impact of the legislation in the [House Labor and Commerce Committee](#) on January 21. The bill reported, 14-6.

TCPR and EMD are systematic programs of handling medical calls that allow trained telecommunicators to determine the nature and priority of the call, dispatch the appropriate response, and give the caller appropriate instructions to help treat the patient until a responding EMS unit arrives on the scene. The Virginia Office of Emergency Medical Services (OEMS) currently maintains an EMD accreditation [program](#) for PSAPs and emergency dispatch centers to promote training and standards established by the National Highway Traffic Safety Administration (NHSTA).

As previously [written](#), clear benefits exist to communities that adopt TCPR and EMD at their PSAPs. However, these upgrades to existing emergency dispatch services require local funding to implement and maintain. Rescue Squad Assistance Funds ([RSAF](#)) may be used to support the implementation of these upgrades, however this is a limited amount of funding to which localities across the state may apply, the grants are used to support a variety of needs including equipment, vehicles, and computers, and local match funding is required except in the most unique of cases.

According to OEMS, 96 cities and counties currently provide TCPR at their PSAPs. Similarly, 34 PSAP's have yet to implement EMD, though two of these localities recently received RSAF funding to help implement EMD.

Though not opposed to the intent of the legislation, VACo staff expressed concerns over the potential fiscal impact for the remaining localities to meet the requirements that will be imposed by the legislation.

The bill now advances to the Full House. The Senate companion legislation – [SB 720 \(McClellan\)](#) – has yet to be given a hearing date in the Senate Commerce and Labor Committee.

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

Water contaminant bills report out of subcommittee

Two bills seeking to study and address certain chemical contaminants in Virginia’s drinking water have survived their first subcommittee hearings and will now move forward to the full committee.

Both bills attempt to focus on the growing concern over the threats of PFAS chemicals, which is the colloquial term for per- and polyfluoroalkyl substances. These substances, also nicknamed “forever chemicals,” have earned more and more attention lately, as there is growing concern over the links to pollution and their existence in water supplies and various medical ailments. The Environmental Protection Agency (EPA) has been working to study and address PFAS contamination for some time and is in fact currently working to determine maximum contaminant levels (MCLs), the legal limit on the amount of a substance that is allowed in public drinking water.

[HB 586 \(Guzman\)](#) directs the Commissioner of Health to convene a work group to study the occurrence of perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS), and other perfluoroalkyl and polyfluoroalkyl substances (PFAS) in the Commonwealth's public drinking water and to develop recommendations for specific maximum contaminant levels for PFOA, PFOS, and other PFAS for inclusion in regulations of the Board of Health applicable to waterworks.

HB 586 was amended several times prior to its passing. First, it was amended to include several additional chemical compounds to study to ensure the most comprehensive look at this topic possible. Second, amendments were made to clarify that the Board of Health *may* develop regulations as necessary, not *shall*, opening the door to allow for a report that does not recommend regulations. And finally, the due date of the report was moved from December 1, 2020 to December 1, 2021. After robust debate, HB 586 was recommended for reporting by a vote of 7-0.

The second bill, [HB 1257 \(Rasoul\)](#), directs the State Board of Health to adopt regulations establishing maximum contaminant levels in public drinking water systems for (i) PFOS, PFOA, and other PFAS compounds deemed necessary; (ii) chromium-6; and (iii) 1,4-dioxane. The bill requires such MCLs to be protective of public health, including the health of vulnerable subpopulations, and to be no

higher than any MCL or health advisory adopted by the U.S. Environmental Protection Agency for the same contaminant. The bill directs the Board to consider certain studies in adopting such MCLs and to consider establishing other MCLs any time two or more other states set limits or issue guidance on a given contaminant.

HB 1257 encountered more issues than HB 586, primarily given that it requires – not permits as necessary – the Board to establish MCLs, regardless of any state findings about them. Given this problem, Delegate Rasoul opted to amend his bill to include a delayed enactment clause, postponing the bill from taking effect until July 1, 2022. This allows for the study directed by HB 1257 to be completed before any MCLs or further regulations are established. Additionally, the language authorizing the board to establish any other MCLs if other states set new limits was stricken from the bill. Eventually, HB 1257 made it out of subcommittee by a 5-2 vote, though the members indicating they still would like to work on this bill in committee.

With HB 586 and HB 1257 surviving subcommittee, both bills will now be heard by the [House Health, Welfare, and Institutions Committee](#). They will likely be taken up on Tuesday, January 28.

VACo will continue to monitor these bills.

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

Drone bills generating a buzz in subcommittee

VACo supports a bill that reverses some of the restrictions placed on local governments regarding the use of unmanned aerial systems (UAS), which are also known as drones. The bill advanced out of a House subcommittee.

[HB 742 \(Bulova\)](#) restores some authority to political subdivisions to regulate the use of UAS. Specifically, the bill allows political subdivisions to adopt ordinances or regulations to regulate the take-off and landing of UAS on property owned by the political subdivision, if such regulations are developed and authorized in accordance with the rules and regulations promulgated by the Virginia Department of Aviation. The bill further stipulates that the Department of Aviation consult with UAS industry stakeholders, localities, and other stakeholders in the development of said regulations, and has delayed enactment of January 1, 2021.

Though [regulations](#) from the Federal Aviation Administration ultimately preempt authority to regulate the use of air space, legislation from the 2018 General Assembly Sessions removed additional local authorities, which has since caused concern over the ability of local governments to regulate use of drones on

properties such as county parks, schools, and other areas. This bill represents a compromise between the UAS industry and local government.

VACo supports this legislation and spoke in favor of the bill in the Technology and Innovation Subcommittee of the House Communications, Technology, and Innovation Committee.

Similar legislation – [HB 311 \(Gooditis\)](#) and [HB 1227 \(LaRock\)](#) – was recommended to be incorporated into HB 742 by the subcommittee, which recommended to report the bill unanimously 8-0. HB 742 will now likely be heard by [House Communications, Technology, and Innovation Committee](#) on Wednesday, January 29.

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

Bill mandating localities develop plans for transit-oriented development moves forward to next stop

[HB 585 \(Guzman\)](#), which requires transit-oriented development (TOD) in comprehensive plans, passed in [House Counties, Cities and Towns Committee's Land Use Subcommittee](#) on a [4 to 3](#) vote. TOD is a type of urban development that maximizes the amount of residential, commercial and public space within walking distance of public transportation, typically in the form of light rail or bus rapid transit (BRT). The bill was amended in subcommittee to limit the requirement to cities with a population of more than 20,000, and counties with more than 100,000.

Specifically, the bill requires such localities to “...*incorporate into the next scheduled and all subsequent reviews of its comprehensive plan strategies to promote transit-oriented development for the purpose of reducing greenhouse gas emissions through coordinated transportation, housing, and land use planning.*”

VACo spoke in opposition to the mandate citing the potential fiscal impact to Counties that meet the population threshold criteria. Additionally, Counties are already required to address transportation and housing in their comprehensive plans. This additional requirement for a locality not seeking to develop a TOD plan will add unnecessary costs and time delays.

The bill is scheduled to be heard in the [House Counties, Cities and Towns Committee](#) on Friday, January 24, at 9 am.

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

Urban fertilizer program bill moves to full Senate

By unanimous votes, Senator Monty Mason's [SB 849](#) has passed both the Senate Agriculture, Conservation and Natural Resources Committee and the Senate Finance and Appropriations Committee and will now head to the full Senate for consideration.

[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.

SB 849 is a part of the Northam Administration's legislative package relating to natural resources and the Chesapeake Bay. Prior to the bill's introduction, the Administration worked with VACo 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.

SB 849 will be introduced later this week on the Senate floor and will likely be voted on next week.

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

School employee mental health training bills modified to reduce burden on teachers and localities

On January 20, the [Pre-K-12 Subcommittee](#) of the House Education Committee met and considered several pieces of mental health training legislation, which as originally written, could have imposed onerous training requirements on public school staff and resulted in additional unfunded mandates.

To varying degrees in their original forms, [HB 74 \(Kory\)](#), [HB 716 \(Reid\)](#), and [HB 1554 \(Samirah\)](#) would have required school boards to adopt and implement policies that all teachers and relevant personnel complete Mental Health First Aid training on a regular basis. Though well intentioned, these bills would likely result in additional unfunded mandates imposed upon school divisions and localities. Many mental health training programs currently available involve staff dedicating multiple hours and in some case, up to a day to complete. Taken in aggregate, that is valuable staff time that would need to be covered by other employees during training and financed.

Members of the education community and VACo reached out to the patrons to express concerns and were pleased that the patrons voluntarily amended their bills to make them less burdensome while still addressing the serious needs of raising mental health awareness.

HB 716 and HB 1554 were incorporated in HB 74, which was amended in the form of a substitute to allow local school boards to determine which employees need additional training, require the Virginia Department of Education to provide such training, and make it available to local school divisions online. The subcommittee recommended reporting with the substitute 7-1.

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

After years of failure, fracking ban finally advances out of committee

A bill seeking to ban hydraulic fracturing, better known as “fracking,” in certain parts of the Commonwealth has passed the Senate Agriculture, Conservation, and Natural Resources Committee and is slated to be heard by the full Senate.

[SB 106 \(Surovell\)](#) seeks to prohibit fracking in the Eastern Virginia Groundwater Management Area in an effort to better protect the Potomac Aquifer, which supplies drinking water to millions of Virginia residents. Senator Scott Surovell and others have brought similar legislation in previous years, but it has failed to advance out of committee.

While representatives from Virginia Petroleum Council and the Virginia Oil and Gas Association contended that fracking could be conducted in a safe manner, ultimately it was the environmental community that won the day, as SB 106 was passed by a 10-5 vote. The bill will likely be heard and voted on by the full Senate sometime next week.

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

Tree preservation bill reports to the House

[HB 520 \(Bulova\)](#), which directs 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 passed out of the House Agriculture, Chesapeake, and Natural Resources Committee and will now be heard by the full House of Delegates. A final vote by the House will most likely be taken early next week.

As noted previously in [Capitol Contact](#), HB 520 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).

VACo has been pleased to testify on behalf of HB 520 as it has made its way through the House. We are grateful for the work Delegate David Bulova has done with this legislation and are eager to continue to support this bill as it continues its journey through the General Assembly.

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

Local lobbying registration bill fails

A bill seeking to create new disclosure requirements and a registration system for local government lobbying has failed for the year.

[SB 383 \(McPike\)](#) sought to require any paid lobbyists who are working to influence or attempt to influence any local government officer or employee (defined as any person appointed or elected to any local governmental or advisory agency, paid or otherwise) to provide notice of such status to the clerk of the local governing body of the county, city, or town in which the officer or employee serves. This notice would have required a \$25 filing fee, must have been made within 15 days of communicating with a local government officer or employee, and would have required disclosure of the individuals name, contact information, and information about what action they were working on. In turn, local government clerks would have been required to keep records of such notices for five years. Any violation of these requirements would have been a Class 1 misdemeanor.

Upon introduction, SB 383 generated concerns as to how broadly lobbying action was defined as well as the cost and burden of setting up and maintaining a registration system within local governments.

Ultimately, SB 383 failed to make it out of the Senate Local Government Committee. It was passed by indefinitely by a narrow 8-7 vote.

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

Goat grazing bill stricken for the year

Legislation seeking to authorize local governments to use goat herds for “flash grazing” to control overgrowth along stream banks has been stricken for the year at the request of the patron.

[SB 648 \(Boysko\)](#) allowed 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.

As [reported previously in Capitol Contact](#), SB 648 was first heard last week by the Senate Agriculture, Conservation and Natural Resources Committee, which expressed concerns with the water quality impact of flash grazing as well as the overly broad nature of the bill. The bill was passed by for the week to give the patron time to work on amendments, but ultimately the requisite changes appear to have been too much to work through in such a short time. As such, the patron requested the bill be stricken from the docket and will not be heard again this session.

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 is confirmed 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 | 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](#)