

Capitol Contact

Virginia General Assembly

Virginia Association of Counties • 1207 E. Main Street, Suite 300 • Richmond, VA 23219
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Tuesday, January 28, 2020

Additional Priority Budget Amendments Introduced

In addition to the package of budget amendments introduced at VACo's request (discussed in the [January 21 edition of Capitol Contact](#)), VACo supports several amendments that address county priorities, many of which were introduced at the request of partner organizations. Below is a list of items VACo will be working to support during budget discussions.

Assistance with no-excuse absentee voting implementation

[Item 86 #12s \(Deeds\)](#) provides \$5 million each year of the biennium to assist localities with needs associated with no-excuse absentee voting. Legislation is moving through the General Assembly to provide for a 45-day no-excuse absentee voting period.

Partial restoration of funding for planning district commissions

[Item 114 #3h \(McQuinn\)/Item 114 #4s \(Lucas\)](#) provide \$294,000 each year of the biennium for partial restoration of funding to planning district commissions that was reduced during the recession.

Elimination of cap on recognition of support positions in the SOQ

[Item 145 #16h \(Leftwich\)/Item 145 #29h \(Aird\)/Item 145 #15s \(McClellan\)](#) provide approximately \$407 million in each year of the biennium to eliminate the cap on recognition of support positions in the Standards of Quality. 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.

Aid to local public libraries

[Item 247 #1h \(Sickles\)/Item 247 #2s \(Norment\)](#) provide \$2.75 million in FY 2021 and \$5.5 million in FY 2022 in state aid to local public libraries, and state the General Assembly's intention to achieve full funding of the formula for state aid by FY 2024.

State Support for Community Services Boards (CSBs)

- [Item 322 #5h \(Bulova\)](#)/[Item 322 #3s \(Boysko\)](#) provide \$9.3 million per year to restore funding cut in the 2018 Appropriations Act on the expectation that CSBs would be able to replace state General Fund support with Medicaid reimbursements for clients who were newly eligible for Medicaid after expansion. This funding would cover the difference between the \$25 million General Fund reduction and expected Medicaid reimbursements.
- [Item 322 #3h \(Bulova\)](#)/[Item 322 #5s \(Boysko\)](#) provide \$575,968 in FY 2021 and \$3.1 million in FY 2022 for full funding of the outpatient services component of STEP-VA.
- [Item 313 #55h \(Robinson\)](#)/[Item 313 #46s \(Ruff\)](#) provide \$3.5 million from the general fund each year (along with a matching amount of Medicaid funds) to increase the early intervention case management rate, which currently does not fully cover the cost of these services.

Medicaid waivers

[Item 313 #8h \(Sickles\)](#)/[Item 313 #19s \(Barker\)](#) and [Item 313 #51h \(Guzman\)](#) provide an additional 2,068 Developmental Disability Waiver program slots over the biennium for individuals on the Priority 1 waiting list.

Foster Care and Child Welfare

- [Item 354 #3h \(Keam\)](#)/[Item 354 #10s \(Pillion\)](#) provide \$500,000 each year for a grant program to assist local departments of social services with recruiting and retaining foster families.
- [Item 354 #5h \(Mullin\)](#)/[Item 354 #4s \(Favola\)](#) provide \$500,000 each year for a state-funded child welfare stipend program that would assist local departments of social services with recruiting social work students to serve in local departments. The program would be modeled on the federally-funded program but would be more flexible; the federal program (funded through Title IV-E) requires recipients to spend a majority of their time on foster care and adoption, which can be a barrier to participation by small rural departments, as staff in these agencies may divide their time among more service areas.

Water Quality

[Item 377 #1h \(Bulova\)](#) and [Item 377 #5h \(McQuinn\)](#)/[Item 377 #5s \(Hanger\)](#) direct the Department of Environmental Quality to develop an alternative point source implementation approach to the one provided in the Phase III Watershed Implementation Plan.

VACo Contact: [Katie Boyle](#)

Support County authority to determine local tax incentives for large solar projects

[SB 800 \(Lewis\)](#), which advances the expiration date of the state-mandated 80 percent tax exemption from Machinery and Tool Tax (M&T) for utility-scale solar projects greater than 20 megawatts (MW) from 2024 to 2021, will be placed on the docket for the [Senate Finance and Appropriations Committee](#) meeting on Wednesday, January 29, at 9 a.m.

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 expiration date.

Action Required – Contact [Senate Finance and Appropriations Committee](#) Members today and express your support for [SB 800](#).

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.
- SB 800 allows localities, at their discretion, to provide a tax incentive for these larger installations.

KEY CONTACTS

Senate Finance and Appropriations Committee: [Howell \(Chair\)](#), [Saslaw](#), [Norment](#), [Hanger](#), [Lucas](#), [Newman](#), [Ruff](#), [Vogel](#), [Barker](#), [Edwards](#), [Deeds](#), [Locke](#), [Petersen](#), [Marsden](#), [Ebbin](#), [McClellan](#)

Email all committee members at once - [Senate Finance and Appropriations](#)

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

Unfunded mandate for deputy sheriff salaries stricken for the year

A bill that would have required an increase in minimum salaries for deputy sheriffs was stricken from the docket today at the behest of the patron in the Senate Finance and Appropriations Committee.

[SB 1085 \(Pillion\)](#) provided that the minimum salary for all deputy sheriffs, law enforcement and non-law enforcement, shall be set at the compensation board minimum plus a 20 percent supplement. This supplement would have required localities to foot the bill unless that locality was designated as high or above average according to the Commission on Local Government's Fiscal Stress Index as of July 1, 2020. For those localities at high or above average fiscal stress, the bill directed the Commonwealth to pay the entire sum of the difference between the current salary paid and the new required minimum. For those localities *not* at high or above average fiscal stress, however, the cost fell directly to them and was estimated to be over \$9 million in total.

VACo was quick to express our concerns about the fiscal impact to Senator Todd Pillion and additionally relayed our concern that this would set a dangerous precedent. We also voiced our fear that the bill would open the door for greater future financial impacts should localities fiscal stress level change in ensuing years.

After several discussions, Senator Pillion understood the position localities are in and ultimately agreed to strike the bill for the year. He instead has agreed to partner with VACo and other stakeholders over the course of the next year to comprehensively study the issue of deputy sheriffs' salaries and come back for the 2021 legislative session with fresh ideas. VACo is grateful for the hard work Senator Pillion has done on this issue and is eager to work with him to address this in the coming months.

While SB 1085 has been taken care of for the year, [HB 1302 \(Hurst\)](#), the House counterpart, is still alive. That being said, HB 1302 has yet to be placed on an agenda, and initial discussions between VACo and Delegate Chris Hurst's office revealed that the Delegate is still considering alternative paths forward, so the bill's future is unclear.

VACo will continue to monitor and report any changes in status.

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

VACo supports maintaining authority of Counties to address impacts of large-scale solar

The 2020 General Assembly will consider several bills that would limit and restrict local land use authority to address impacts due to the placement and operation of utility-scale solar projects.

VACo opposes these efforts that include the following legislative proposals:

[HB 657 \(Heretick\)](#) and [SB 893 \(Marsden\)](#) exempt any solar facility that is 150 megawatts (MW) or less in capacity from the requirement that it be reviewed for substantial accord with a locality's comprehensive plan. A 150 MW project has a footprint of more than two square miles with potential significant impacts to forest, farm and water resources. A substantial accord review is typically a first step in the land use application process for such projects and provides both applicants and localities with guidance on whether the use and its location are appropriate. If the answer is “no” then the applicant and locality can forego the cost and time of a special use or rezoning process. If “yes” then the applicant can choose to apply for any necessary legislative and administrative approvals. HB 657 has been assigned to the [House Labor and Commerce Committee's Subcommittee #3](#). SB 893 has been assigned to the [Senate Local Government Committee](#).

[HB 656 \(Heretick\)](#) and [SB 875 \(Marsden\)](#) restrict the authority of counties to regulate the use of solar panels and solar storage through provisions in local zoning ordinances. Specifically, the bills mandate that local ordinances may only include certain industry standards when regulating the “... *use of solar panels and battery technologies*.” The bill also includes a complicated enactment clause that further limits local authority to implement zoning ordinances regulating the use of such technologies.

It is VACo's understanding that the purpose of this new language is to prohibit a locality from determining what types of solar panels and solar batteries they will, or will not allow, through implementation of a zoning ordinance. HB 656 has been assigned to the [House Labor and Commerce Committee's Subcommittee #3](#). SB 875 has been assigned to the [Senate Local Government Committee](#).

[HB 655 \(Heretick\)](#) and [SB 870 \(Marsden\)](#) create a new conditional zoning process in state code specifically for solar projects greater than 5 MW in capacity. A locality adopting such a process may only accept proffered conditions, including cash payments, “... *so long as such proffered conditions are reasonably related to the project*.”

Most utility-scale solar projects are permitted as a “special exception” (aka special use) within agriculturally zoned districts. Any locality wishing to utilize this conditional zoning process would either need to create new zoning classification or potentially require a commercial or industrial rezoning within agriculture or forest districts. Additionally, the standard for determining how a proffer is “reasonably related” to a project poses a potential legal liability should a court determine a proffer unreasonable. HB 655 has been assigned to the [House Counties, Cities and Towns Committee's Land Use Subcommittee](#). SB 870 has been assigned to the [Senate Local Government Committee](#).

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

Bill allowing the Board of Education to sue localities over school facilities stricken

On January 27, [HB 1446 \(Aird\)](#) was struck at the request of the patron in the House Education Committee. The bill, as originally written, would have required all school boards to assess each school building in the school division and for compliance with standards to be determined by the Virginia Board of Education (VBOE). In the case of non-compliance with said standards, the report from the school board would include an assessment of the locality's ability to use local funds to provide a remedy. Most problematically, the bill would have authorized VBOE to sue the locality to compel the local governing body to provide funds to the school board.

Though there is a need for school facilities improvements across the Commonwealth, unlike other K-12 responsibilities such as the Standards of Quality, local governments provide nearly 100 percent of the funding for school capital costs without state support. As previously [reported](#) many localities face significant challenges raising sufficient funds to undertake school construction or renovation projects. Despite this, Attorney General Mark Herring issued an [opinion](#) earlier this year stating that the responsibility for these projects lies primarily with localities.

VACo met with Delegate Lashrecse Aird and other stakeholders to share concerns prior to the bill's hearing in Committee. We appreciate the willingness of the patron to honestly engage on this issue and advocate for better educational outcomes for K-12 students across the Commonwealth.

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

Bill providing local authority to restrict nutrient credit usage continued to 2021

A bill introduced by Delegate Wendy Gooditis seeking to authorize local governments to restrict nutrient credit usage in their localities has been continued to the 2021 legislative session.

[HB 1464 \(Gooditis\)](#) sought to authorize the governing body of any locality, by ordinance, to restrict the total nutrient credits that are generated in the locality and used in an adjacent eight-digit hydrologic unit code or fourth order subbasin to comply with stormwater nonpoint nutrient runoff water quality criteria. Put more simply, the bill was an attempt to give a local government more control over nutrient credit usage to help localities limit the amount of land that is used for nutrient credits in an effort to preserve their more rural or agricultural nature.

The bill was introduced by Delegate Gooditis to help Clarke County, who has recently seen hundreds of acres of land converted to “nutrient credits.”

HB 1464 was heard by the Chesapeake Subcommittee of the House Agriculture, Chesapeake and Natural Resources Committee. After lengthy discussion about local government rights to preserve a locality’s distinct character, individual property owner’s rights, and the state of the nutrient credit trading industry, ultimately the Subcommittee agreed to delay action on the bill during this session and instead continue working on it in 2021.

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

Deleterious substances discharge reporting bill heavily amended in subcommittee

A worrisome bill requiring drastic new reporting requirements for the discharge of deleterious substance into state waters was heavily amended in subcommittee on Monday night before finally reporting to the full House Agriculture, Chesapeake and Natural Resources Committee.

[HB 1205 \(Tran\)](#) sought to decrease from 24 hours to eight hours the time frame for any person who unlawfully discharges any deleterious substance into state waters to give notice to the Director of the Department of Environmental Quality (DEQ) or the local coordinator of emergency services. The bill also requires DEQ to give the reported discharge information to the Virginia Department of Health (VDH), local newspapers, television stations, and radio stations, and disseminate via commonly used social media platforms and email notification lists within eight hours of receipt of such information. At the outset of the hearing, the eight-hour requirements were amended by the patron and increased to 12 hours

While the underlying idea of public disclosure of possible pollutants in waterways is certainly sound, the practical effect of an 8-hour or 12-hour reporting window is worrisome. What would happen if the discharge happened after hours or on a holiday? Would DEQ or VDH even have staff available to receive this information at all hours? Given all of these questions and concerns, the subcommittee opted to change the reporting window *back* to 24 hours, but they did keep intact the second prong of the legislation, which requires the DEQ to report this information not merely to local newspapers, but to all possible media outlets to ensure timely and effective dissemination.

HB 1205 survived subcommittee by a vote of 5-3 and will now be heard by the full [House Agriculture, Chesapeake and Natural Resources Committee](#) on Wednesday morning.

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

Fracking ban bill passes full Senate

A bill seeking to ban hydraulic fracturing, better known as “fracking,” in certain parts of the Commonwealth has passed the full Senate by a 26-13 vote.

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

SB 106 will now head to the House for consideration, where it will be referred to the House Agriculture, Chesapeake and Natural Resources Committee.

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

Urban fertilizer program bill unanimously passes Senate

Having already passed the Senate Agriculture, Conservation and Natural Resources Committee and the Senate Finance and Appropriations Committee by unanimous votes, [SB 849 \(Mason\)](#) continued with its successful track record, passing the full Senate by a vote of 39-0.

The bill 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.

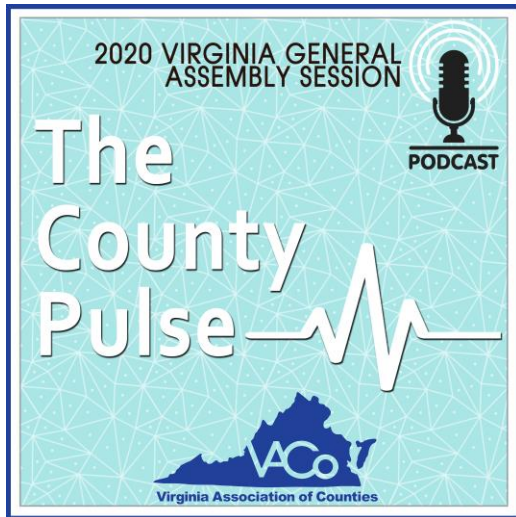
In addition to the local option to work with VDACS, the bill also reduces from 100 to 50 the total number of acres of nonagricultural land to which a contractor-applicator may apply lawn fertilizer and lawn maintenance fertilizer annually without submitting an annual report to the Commissioner. The bill 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.

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

General Assembly Legislative Briefs 2 | Episode 2 | Delegate Terry Kilgore



[Listen to the Podcast](#)

VACo Executive Director Dean Lynch welcomed Delegate Terry Kilgore to the County Pulse Podcast to talk about the 2020 General Assembly Session. The two Scott County natives discussed Equal Taxing Fairness, budget amendments, legislation submitted by Delegate Kilgore, opportunities in Southwest Virginia, and much more.

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](#).

VACo Contact: [Valerie Russell](#)