

Capitol Contact

Virginia General Assembly

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



Thursday, February 13, 2020

Oppose Mandated Collective Bargaining for Public Employees

[HB 582 \(Guzman\)](#) mandates that Counties, as employers, are required to engage in collective bargaining with employees if only 30% of employees petition to form a collective bargaining unit and a majority of votes cast elect to designate a union or labor association as their exclusive representative to negotiate terms and conditions of employment.

The [Code of Virginia](#) currently prohibits collective bargaining for public employees in Virginia but does allow them to form associations to promote their interests. This bill mandates that public employers are required to engage in collective bargaining. This bill favors unions in every aspect of the process and will have a chilling effect on the employer-employee relationship. VACo opposes any effort to mandate collective bargaining for public employees.

ACTION REQUIRED – Contact [Senate](#) Members today to oppose [HB 582](#).

Additional policy analysis on HB 582 can be found [here](#).

KEY POINTS

- This bill removes local option as it forces local governments into collective bargaining if only 30% of employees petition to form a collective bargaining unit and a majority of votes cast elect to designate a union or labor association as their exclusive representative to negotiate terms and conditions of employment. The result could be a small number of your employees forcing collective bargaining on all employees.

- There is no dedicated funding source identified to handle the administration of collective bargaining at the local level. Costs could include additional administrative and legal staff, negotiation with exclusive representatives, mediation, and arbitration. Without a funding mechanism this will likely lead to higher taxes and/or a reduction in existing benefits and services and has the potential to be felt in every community of the Commonwealth.
- These bills could require local employees and County representatives to engage in mediation and arbitration of disputes with the PERB, a board that has no local representation or county expertise. This will add to expenses and could result in long protracted procedures for even small disputes.
- Passage of the bills will require Counties to [spend](#) valuable fiscal resources on labor attorneys and other experts to represent the interests of each locality.

[HB 582](#) was passed by the House of Delegates, 54-45, and has been referred to the Senate Commerce and Labor Committee, where it could be heard as early as Monday, February 17. **VACo continues to oppose this bill and speak in opposition to this mandate.**

[Additional policy analysis on HB 582.](#)

A similar bill without a mandate is [SB 939 \(Saslaw\)](#), which preserves local option to engage in collective bargaining. SB 939 is permissive but leaves the governance of any collective bargaining authority to be determined by local ordinance if a local public employer chooses to enact one. SB 939 passed the Senate, 21-19, and will likely be referred to the House Labor and Commerce Committee. **VACo has taken no position on SB 939 but appreciates amendments made by the patron to maintain local authority and the prohibition on public employees striking.**

Contact your legislator now to oppose HB 582.

KEY CONTACTS

Senate Commerce and Labor Committee: [Saslaw \(Chair\)](#), [Norment](#), [Newman](#), [Obenshain](#), [Lucas](#), [Spruill](#), [Edwards](#), [Deeds](#), [Barker](#), [Marsden](#), [Ebbin](#), [Lewis](#), [Surovell](#), [Mason](#), [Bell](#)

Senate Commerce and Labor Committee – Email entire committee

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

Senate Finance and Appropriations Committee – Email entire committee

[House of Delegates](#) | [Senate of Virginia](#)

VACo Contacts: [Jeremy R. Bennett](#) and [Phyllis Errico, Esq.](#)

Support critical water funding in the Governor’s proposed budget

As has previously been detailed in Capitol Contact as well discussed as at the recent VACo Legislative Day, Governor Northam introduced several funding initiatives in his 2021-2022 budget that are critical to the environmental goals of localities.

Two of the most important proposals are as follows:

- Stormwater Local Assistance Fund (SLAF)
 - \$182 million in Virginia Public Building Authority bond funding was included in the budget for SLAF. Given that SLAF is a 50-50 cost-share program for local governments, this historic level of funding in the budget equates to \$364 million in projects.
- Water Quality Improvement Fund (WQIF)
 - \$120 million in Virginia Public Building Authority bond funding was included in the budget for WQIF. This cost-share program will substantially assist localities with wastewater treatment plant upgrades.

Members on the Senate Finance and Appropriations Committee and the House Appropriations Committee have expressed concerns about how large these investments are, particularly as they rely on the Commonwealth’s debt capacity.

With the Senate Finance and House Appropriations official budget recommendations set to be released this Sunday, February 16, VACo members are encouraged to speak with [Delegates](#) and [Senators](#), particularly those on the money committees – [Senate Finance and Appropriations Committee](#) and [House Appropriations Committee](#) – to express support for these funding levels.

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

Local government mandate for Public Defenders' salaries poised to be heard in Senate

A problematic bill that mandates local governments supplement their public defenders' salaries narrowly passed the House of Delegates and is ready to be heard by the Senate Judiciary Committee.

[HB 869 \(Bourne\)](#) requires that the governing body of any County or City that elects to supplement the compensation of the attorney for the Commonwealth, or any of their deputies or employees, above the salary of any such Attorney of the Commonwealth, deputy, or employee, to proportionally supplement the compensation of the public defender, or any of his deputies or employees.

ACTION REQUIRED – Contact legislators on the [Senate Judiciary Committee](#) and express opposition to HB 869.

KEY POINTS

- If any locality supplements their Commonwealth's Attorney's salary – as many, if not most, localities already do – this creates an unfunded mandate requiring that they also supplement their Public Defender's salary.
- Commonwealth's Attorneys are independently elected, constitutional officers, while Public Defenders are state employees. Requiring local governments to fund state employees sets a dangerous precedent.
- The legislation lacks clarity on how to properly address Commonwealth's Attorney's offices or Public Defender's offices that are shared by multiple localities.
- The legislation lacks clarity on how to address supplements to positions that exist in a Commonwealth's Attorney's office but do not exist in a Public Defender's office.

HB 869 narrowly escaped the House Courts of Justice Committee, first *failing* to report, 11-11, but eventually reporting to the House, 12-10, after the vote was reconsidered. On the House floor, the bill barely survived by a razor thin, two-vote margin (48-50). HB 869 is expected to be referred to the Senate Judiciary Committee, where it could be heard as early as Monday, February 17, at the committee's 8am meeting.

KEY CONTACTS

[Senate Judiciary Committee](#) – Email entire committee

Senate Judiciary Committee: [Edwards \(Chair\)](#), [Saslaw](#), [Norment](#), [Lucas](#), [Obenshain](#), [McDougle](#), [Stuart](#), [Stanley](#), [Chafin](#), [Deeds](#), [Petersen](#), [Surovell](#), [McClellan](#), [Boysko](#), [Morrissey](#)

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

Bills extending state-mandated exemption from local taxes for large solar projects pass both chambers

[HB 1131 \(Jones\)](#), [HB 1434 \(Jones\)](#) and [SB 762 \(Barker\)](#), [SB 763 \(Barker\)](#) are bills that extend a state mandate to exempt utility-scale solar projects from local tax to 2030 (currently set to expire in 2024) have passed in the House and the Senate. **VACo opposes the extension of the deadline.**

In 2016, the state mandated an 80% exemption from local Machinery and Tool Tax (M&T) for solar projects greater than 5 megawatts (MW) in energy capacity. Legislators, recognizing the impact this could have on local revenues and wary of providing the tax subsidy in perpetuity, set an expiration date for the exemption. Specifically, for projects greater than 20 MW, the mandatory exemption expires for any project that has not begun construction by January 1, 2024. 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.

HB 1131/SB 762 provide the option for a locality, by local ordinance, to replace the M&T tax with an energy tax of \$1,400 per MW of capacity installed per project. In addition to extending the expiration date of the mandatory tax exemption, HB 1434/SB 763 provide a step down in the mandatory exemption (80% for the first 5 years of operation, 70% for the next five years, and 60% beyond). The energy tax option may provide more revenue than the currently 80% mandated exemption, but that depends on the size of the project and specific local tax rates. The M&T step down provides a minimal improvement to the current mandated exemption. If both measures are enacted, Counties will need to carefully examine the option of an energy tax versus the current M&T tax. Should this take place, VACo will provide additional information and analysis to assist members.

VACo had supported returning the authority to Counties to determine local tax incentives for utility-scale solar installations. Unfortunately [SB 800 \(Lewis\)](#), which advanced the expiration date of the state-mandated 80% tax exemption from M&T Tax for utility-scale solar projects greater than 20 megawatts (MW) from 2024 to 2021, failed in committee.

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

Peer-to-peer vehicle rental bill passes Senate

Legislation seeking to create a comprehensive framework for peer-to-peer vehicle rentals passed the Senate on February 11 by a 40-0 vote.

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, this operates much like an “Airbnb” system, but for cars.

Currently, peer-to-peer vehicle companies operate in Virginia in an unregulated and untaxed environment. As such, over the course of the last year, stakeholders have been working to draft legislation and establish taxation, insurance coverage, sale of insurance, disclosure, safety recall, airport operation, and recordkeeping requirements for peer-to-peer vehicle sharing platforms.

VACo partnered with Enterprise, Hertz, the American Car Rental Association, as well as several other regional and local governmental associations, to introduce [SB 749 \(Cosgrove\)](#) and [HB 891 \(Sickles\)](#) and [HB 892 \(Sickles\)](#), while the peer-to-peer rental industry introduced their own legislation, [SB 735 \(Newman\)](#) and [HB 1539 \(Jones\)](#). One of the main sticking points and differences between these two bills was the tax structure that was proposed, an issue that led to the defeat of HB 891 and HB 892 in the House Finance Committee (HB 1539 was rereferred to the House Appropriations Committee but not taken up). Ultimately, after two weeks of hearings and negotiations, a compromise was reached, and a new bill was crafted.

Under this new, compromise legislation, owners of more than 10 vehicles that use one of these peer-to-peer vehicle rental platforms will be taxed at the same rate as ordinary rental companies. Under the motor vehicle rental tax (MVRT) rate, rentals are taxed at a 10 percent composite rate (4 percent for localities). For owners of 10 or fewer vehicles, however, a tax of 6.5 percent of gross proceeds shall be paid from July 1, 2020, until July 1, 2021. After July 1, 2021, this rate climbs to 7 percent of gross proceeds. This equates to a rate of 2.5 percent to be paid to localities in the first year, and 3 percent each year after.

VACo is grateful to have been a part of this coalition and was pleased to support the compromise legislation.

Having passed the full Senate, SB 735, which incorporated this substitute language, will now be sent to the House for consideration where it will likely be

referred to the House Finance Committee or the House Appropriations Committee.

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

Workers' compensation legislation for Firefighters and First Responders update

Legislation, which has advanced from the House and the Senate, 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 an occupational illness.

As previously [reported](#), 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.

[HB 783 \(Askew\)](#) / [SB 9 \(Saslaw\)](#) add 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 bills also incorporate 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 to raise the years of service requirement for firefighters for hypertension and heart disease. SB 9 passed the Senate, 40-0. HB 783 passed the House, 99-0.

[HB 438 \(Heretick\)](#) / [SB 561 \(Vogel\)](#) establish 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 the state and local governments if enacted could likely be several orders of magnitude greater than the addition of the cancer presumptions, through the rise of insurance costs needed to fund additional liabilities. Though not opposed to the intent of the PTSD presumption bills, VACo staff has testified to concerns regarding the potential fiscal [impact](#) of

the PTSD bills on localities. HB 438 passed the House, 96-0, while SB 561 passed the Senate, 37-2.

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

Proposed change to local tax authority on large scale wind projects could affect revenue collection

Under current law, wind turbine projects with more than 25 megawatts (MW) in generating capacity may be taxed locally at a rate that exceeds the real estate rate, but that does not exceed the Machinery and Tool (M&T) tax rate. [HB 1327 \(Austin\)](#) modifies this authority to allow a locality to exceed the real estate rate by up to \$0.20 per \$100 of assessed value.

The effect of this change on local revenues will depend on each county's specific real estate and M&T rates. To date, no projects greater than 25 MW have been built in Virginia, although one has been approved to proceed in Botetourt County. The bill is supported by APEX Clean Energy, the developer of the Botetourt project. While the County approved a tax rate on wind turbines of no more than \$0.20 than the real estate rate, APEX sought the legislation to prevent future hikes in the rate allowable under existing law. This is because Botetourt's M&T rate is significantly higher than its current real estate rate.

VACo has concerns that this proposed change could limit the flexibility of Counties that might consider large wind projects in the future to establish appropriate tax rates for this type of property and is seeking changes to the bill to limit its potential impacts. The bill has passed the House and been referred to the [Senate Finance and Appropriations Committee](#).

VACo Contacts: [Joe Lerch, AICP](#) and [Katie Boyle](#)

Strength in state revenues continues as “Budget Sunday” approaches

Members of the “money committees” have been meeting in informal workgroups this week in advance of the House Appropriations Committee and Senate Finance and Appropriations Committee reporting their respective budgets on Sunday afternoon. A strong revenue report issued by the Governor this week may offer some additional flexibility in budget negotiations, although some uncertainty remains about income tax refunds that may be required to be paid later in the

fiscal year, as well as a potential slowdown in income tax nonwithholding as taxpayers adjust to changes in the federal tax code enacted in 2017.

Secretary of Finance Aubrey Layne reported that total General Fund (GF) revenues increased by 8.7 percent in January, and on a fiscal year-to-date basis, revenues are up by 8.4 percent, comfortably outpacing the annual forecast of 1.9 percent growth. Individual income tax withholding, a mainstay of GF revenues, grew by 5.2 percent in January and by 5.7 percent on a fiscal year-to-date basis. Non-wage withholding collections, which tend to be a volatile revenue source, increased by 18.6 percent in January relative to January 2019, and have grown by 18.1 percent on a fiscal year-to-date basis; the annual forecast projects a 7.7 percent decline. Sales tax collections in January (reflecting December sales) increased by 9.9 percent and have grown by 8.4 percent on a fiscal year-to-date basis (ahead of the forecasted 6 percent increase).

In a [February 12 article in the Richmond Times-Dispatch](#), Secretary Layne attributed the continued growth in sales taxes to increases in collections related to online transactions.

VACo has been working with members of the money committees and their staff, partner organizations, and locality representatives to ensure that county priorities are considered as the committees' budgets are assembled, and will be reporting on the key elements of the House and Senate proposals in future editions of Capitol Contact.

VACo Contact: [Katie Boyle](#)

Bill authorizing local government employees to issue summonses passes Senate committee

A bill introduced by Delegate Steve Heretick relating to local government's power to issue summonses has cleared its first hurdle in the Senate, reporting out of the Senate Judiciary Committee on February 12 by a 15-0 vote.

[HB 1213 \(Heretick\)](#) permits localities to appoint and train local government employees to enforce local ordinances by issuing summonses for misdemeanor violations of ordinances that are within the scope of the employee's employment. The bill provides that such employees shall not have the power and authority of constables at common law and their power shall be limited to issuing such summonses in their locality. As such, this bill and this new authority does not apply should the summons be for any violation above a misdemeanor and result in possible arrest.

HB 1213 initially reported out of the House Courts of Justice Committee, 19-0, and passed the full House of Delegates unanimously in a block vote. Having

reported from the Senate Judiciary Committee, the bill will now head to the Senate floor where it will be heard and likely be passed sometime next week.

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

Minimum wage legislation update

On February 11, two different bills raising the minimum wage in Virginia passed the House and the Senate. [HB 395 \(Ward\)](#) cleared the House, 55-45, and [SB 7 \(Saslaw\)](#) passed the Senate, 21-19. Both bills would incrementally increase the wage from the current federally mandate rate of \$7.25 per hour. As previously [reported](#), these bills represent a multiyear [effort](#) to raise minimum wages for Virginia employees and incorporate several legislative proposals from each chamber. Both bills would include state and local government employees in the categories of eligible workers. However, key differences exist between the House and Senate versions.

SB 7 adopts a regional approach that would raise the minimum wage to \$11.50 per hour in 2024. The first incremental increase would be delayed to January 1, 2021, and raise the minimum wage to \$9.50 per hour at that time. The bill directs the Commissioner of Labor and Industry to establish wage regions in the Commonwealth by dividing the state into contiguous regions with similar median household incomes and costs of living. Localities would not be divided into more than one region. By March 1, 2024, the Commissioner is required to establish an adjusted minimum wage for each wage region and update it annually to take effect the following July 1. The increase in minimum wages for the region with the highest median family income (Northern Virginia) would continue to see annual wage growth of \$1 per year until an amount of \$15 per hour is reached. Other regions would see wages increased based on average incomes and then matched to the consumer price index for all urban consumers ([CPI-U](#)) once the region with the highest median income reaches \$15 per hour.

HB 395 would incrementally raise the minimum wage across Virginia to \$15 by July 1, 2025, and then tie further increases to CPI-U. The first incremental increase would occur effective July 1, 2020, and raise the minimum wage to \$10 per hour. The bill would also eliminate exemptions for persons employed as a farm laborer or farm employee, persons employed in domestic service, persons employed by employers with less than four employees, among certain other exemptions.

According to the Department of Planning and Budget's Fiscal Impact Statement ([FIS](#)) for HB 395, raising the minimum wage impacts the Department of Medical Assistance Service's (DMAS) expenditures because it increases the rates paid for attendant care providers, home and community-based waiver services, and other provider types that currently receive wage rates at or near the minimum wage.

This would effect five areas impacting DMAS expenditures: 1) attendant care, 2) adult day health care, 3) in-home residential care, 4) community engagement, and 5) day support. Such increases would impact General Fund expenditures for the Commonwealth in future Fiscal Years.

VACo will continue to monitor and report on these bills as they advance through the General Assembly.

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

Virginia Urban Agriculture Advisory Council fails to take root; continued to 2021

[SB 854 \(Petersen\)](#) sought to create the Virginia Urban Agriculture Advisory Council as an advisory council in the executive branch of state government. The purpose of the Council is to encourage urban agriculture and to contribute to building a local food economy, thereby benefiting Virginia by creating jobs, stimulating statewide economic development, circulating money from local food sales within communities, preserving open space, decreasing the use of fossil fuels and the production of carbon emissions, preserving and protecting the natural environment, increasing consumer access to fresh and nutritious foods, and providing greater food security for all Virginians.

As designed, the Advisory Council would consist of 23 members. Three members - the Commissioner of Agriculture and Consumer Services (VDACS) or his designee, the State Health Commissioner or his designee, and the Secretary of Commerce and Trade or his designee - would serve ex officio with voting privileges. The other 20 members would be non-legislative citizen members and would include representatives from the Virginia Association of Counties as well as other relevant stakeholder groups.

VACo is supportive of SB 854 and is eager to work with the Patron and support the legislation next 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](#)