

# Capitol Contact

Virginia General Assembly

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## Unfunded Mandate for Public Defender Salaries Defeated for the Year

A problematic bill that mandated local governments supplement public defenders' salaries was defeated in the Senate Judiciary Committee on Wednesday night.

[HB 869 \(Bourne\)](#) requires that the governing body of any County or City that supplements 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.

VACo had numerous concerns with the bill.

- This legislation represented an unfunded mandate on local governments. Local discretionary funding decisions must remain local governing body decisions.
- Commonwealth's Attorneys are independently elected, constitutional officers, that in many ways function as local government employees. On the other hand, Public Defenders are state employees, and requiring local governments to fund state employees sets a dangerous precedent.
- The legislation lacked clarity on how to properly address Commonwealth's Attorney's offices or Public Defender's offices that are shared by multiple localities.
- The legislation lacked 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.

- This bill would take effect for any supplement made on or after July 1, 2020, meaning that it directly affects local budgets now under development.

VACo spoke in opposition to the bill and was joined by other local government representatives as well as several Commonwealth's Attorneys.

The Committee ultimately decided to continue the bill to 2021, agreeing that this issue should be further studied and analyzed before any legislative action is taken.

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

## Virginia Board of Education Standards of Quality bills

The fate of several bills codifying changes to the Standards of Quality (SOQ) prescribed by the Virginia Board of Education (VBOE) remains uncertain. [HB 1316 \(Aird\)](#)/ [SB 728 \(McClellan\)](#) would codify several changes to SOQ prescribed in VBOE's biannual [revisions](#) from November 2019. As previously [reported](#), these recommendations are mandated by the Constitution of Virginia, however the General Assembly has historically chosen to selectively enact and/or fund VBOE recommendations.

HB 1316 and SB 728 require a variety of provisions meant to address the needs of K-12 education as seen by VBOE. These include the establishment of a unit in the Department of Education to oversee work-based learning statewide, the establishment and of expanded teacher-leader and teacher-mentor programs, as well as principal mentoring. The bills also establish schoolwide ratios of students to teachers in certain schools with high concentrations of poverty and grant flexibility to provide compensation adjustments to teachers in such schools, requiring each school board to assign licensed personnel in a manner that provides an equitable distribution of experienced, effective teachers. The bills also remove four specialized student support positions, including school social workers, school psychologists, school nurses, and other licensed health and behavioral positions, from the cap on support positions and require 4 of any of these positions per 1,000 students, among other items.

Though Governor Ralph Northam provided funding in his introduced budget for portions of the Board's proposals, including increasing funding for at-risk-add-on, reducing the ratio of school counselors and English Learner instructors, many of the Board's recommendations contained in these bills remain unfunded both in the Governor's introduced budget and the latest budget proposals from the House and Senate. HB 1316 was left in the House Appropriations Committee and as a result, did not cross over to the Senate. SB 728 passed the Senate unanimously, however the financial contingency clause was added to the bill. SB

728 was reported from the House Education Committee, 15-7, with an amendment stripping the clause language from the bill.

[HB 1508 \(McQuinn\)](#) / [SB 880 \(Locke\)](#) require school boards to employ K-12 school counselors in increased ratios. Since 2016, VBOE has recommended one full-time counselor for every 250 students. Currently, code requires one counselor per 375 elementary-school students, one full-time counselor per 325 middle-school students, and one full-time counselor per 300 high-school students. However, the enacted 2019 budget only allows state funding for one counselor for every 455 elementary-school students, one for every 370 middle-school students and one for every 325 high-school students. Both bills update the enactment for the new ratio to take effect for 2020-2021 school year, however they differ on final ratios. HB 1508 as engrossed by the House increases the ratio effective with the 2021-2022 school year to one full-time counselor position for every 325 regardless of grade level. SB 880 as engrossed by the Senate increases the ratio effective with the 2021-2022 school year to one full-time counselor position for every 250 regardless of grade level. The bills will likely make their way into a conference committee to determine the final ratio.

[HB 975 \(Guzman\)](#) / [SB 910 \(Hashmi\)](#) requires state funding to support increased ratios of instructors for students identified as having limited English proficiency (also known as English Language Learners (ELL)). Current standards in code requires state support for 17 positions per 1,000 ELL students meeting. VBOE prescribed increasing the ratio and basing the requisite number upon levels of English proficiency. HB 975 as engrossed by the House sets the new ratio at 18.5 instructional positions per 1,000 ELL students effective with the 2020-2021 school year, and 20 instructional positions effective with the 2021-2022 school year. SB 910 as engrossed by the Senate sets the new ratio at 20 instructional positions effective with the 2020-2021 school year and has financial contingency clause. As with the school counselor legislation, these bills will likely make their way into a conference committee to determine the final ratio.

Any increased ratios for SOQ staffing positions will require additional state and local funds, the division of which to be determined by the local composite index. Local school boards will be responsible for finding qualified candidates and hiring the required staff.

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

## **Local government urban fertilizer bill heads to Senate floor**

Senator Monty Mason's bill about local government urban fertilizer programs reported out of the House Agriculture, Chesapeake and Natural Resources Committee on Wednesday morning by a 17-5 vote.

[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.

SB 849 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 VDACS Commissioner to help administer an urban fertilizer program. In addition to this local option, 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.

Senator Mason's legislation is purely permissive in nature. Prior to the bill's introduction, the Northam 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 supports SB 849, which will now be voted on by the full Senate early next week.

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

## **Bill mandating localities develop plans for Transit-Oriented Development is amended to make it optional**

[HB 585 \(Guzman\)](#), which requires localities to adopt Transit-Oriented Development (TOD) plans was amended in the Senate Local Government Committee by making it optional. Specifically, the committee replaced the mandate that localities incorporate TOD strategies within comprehensive plans with "*shall consider incorporating*" within comprehensive plans. The bill was also amended earlier in the legislative session to limit its application to cities with a population more than 20,000, and counties more than 100,000.

The bill has passed both chambers and now awaits approval by the Governor.

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

## PSAP dispatcher bills advance

[HB 727 \(Hope\)](#) / [SB 720 \(McClellan\)](#) mandate 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. As previously [reported](#), although not opposed to the intent of the legislation, VACo staff testified to concerns over the potential fiscal impact of the legislation.

According to the Office of Emergency Medical Services (OEMS), 96 Cities and Counties currently provide TCPR at their PSAPs. Similarly, 34 PSAPs have yet to implement EMD, though two of these localities recently received RSAF funding to help implement EMD. This legislation would require the remaining localities to implement new programs and training at their PSAPs by the required dates. This would require additional local funding even if grants were awarded from the state through the Rescue Squad Assistance Fund ([RSAF](#)).

Furthermore, VACo staff expressed concern to the patrons that defining language in the bills as originally drafted for EMD certification and education programs bills consistent with the International Academies of Emergency Dispatch (IAED) would inadvertently impact an additional 40 localities who currently provide EMD services, but do so through different programs from IAED, but that are still acceptable to current OEMS standards. VACo thanks the patrons and OEMS for their willingness to engage on and correct this issue with substitute language.

HB 727 passed the House 82-17 and was reported and referred to the Senate Finance and Appropriations Committee by the Senate Commerce and Labor Committee, 15-0. SB 720 passed the Senate unanimously and reported from the House Labor and Commerce Committee, 16-5.

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

## Legislation changing required credentials for local health directors to be studied

[SB 993 \(Locke\)](#) would expand the possible credentials that the State Health Commissioner and local health directors could possess in order to be eligible to serve in these roles. Currently, the Commissioner and local health directors must be licensed physicians; the bill would allow a local health director to be a licensed physician or hold an advanced degree in the field of public health (similar provisions would apply to the Commissioner). Concerns were expressed as the bill moved through the process about the potential effects on health department operations if the director were not a physician, as there are a number of Code and

regulatory provisions that assume that the local director, or his designee, is a physician. Currently, in several health districts, the director is the only physician on staff. A subcommittee of House Health, Welfare, and Institutions Committee recommended that the bill be continued to next year and that the issue be referred to the Joint Commission on Health Care, which would allow for some review of how local health department staffing can best address public health needs.

**VACo Contact:** [Katie Boyle](#)

## Tree preservation bill takes root in Senate

Having already passed the full House of Delegates, [HB 520 \(Bulova\)](#) has successfully cleared its first hurdle in the Senate, reporting out of the Senate Agriculture, Conservation and Natural Resources Committee by a 13-2 vote on February 18.

HB 520 directs the Department of Environmental Quality 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). The bill was the result of several months of stakeholder conversations and negotiations between VACo, the Home Builders Association of Virginia (HBAV), VML, and Arlington County about urban forestry and ways local governments could embrace tree preservation or replanting as a potential stormwater BMP that can help meet the goals of the Chesapeake Bay Phase III Watershed Implementation Plan (WIP).

VACo has been proud to speak in support of HB 520 as it has now been heard in Committee in each chamber. HB 520 will now head to the full Senate, which will likely vote on the measure early next week.

**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](#)