

Capitol Contact

Virginia General Assembly

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Peer-to-peer vehicle rental bill proceeds to the Governor's desk

After nearly two months of debates, amendments and hearings, legislation creating a comprehensive framework for peer-to-peer vehicle rentals in the Commonwealth has now passed both the House of Delegates and the Senate and will head to the Governor's desk.

[SB 735 \(Newman\)](#) is an all-inclusive, compromise bill developed and agreed to by all parties involved in and affected by peer-to-peer vehicle rentals, including local governments, the peer-to-peer industry, car rental companies, insurance representatives, and more. Originally, VACo had partnered with Enterprise, Hertz, the American Car Rental Association, as well as several other regional and local governmental associations to introduce [SB 749 \(Cosgrove\)](#), [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 differences (and ultimately the main sticking point) 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). After several weeks of negotiations and new hearings, ultimately a new compromise bill was drafted by all parties and introduced as a substitute for SB 735.

Under this new 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.

SB 735 reported from the Senate Finance and Appropriations Committee, 14-1-1, and ultimately passed the full Senate by a vote of 40-0. Last week, SB 735 was heard and unanimously reported out of both the House Finance Committee and the House Appropriations Committee. Late Wednesday evening, the bill was heard a final time on the House floor and passed by a vote of 95-4. SB 735 will now be sent to the Governor for consideration and eventual signing.

VACo is grateful to have been a part of this coalition and has been pleased to support and speak on behalf of this legislation as it made its way through the General Assembly.

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

Virginia Food Access Investment Fund (VFAIF) inches closer to passage

Legislation establishing the Virginia Food Access Investment Fund (VFAIF) continues to inch closer and closer to passage, as both the House and Senate bills have each cleared their latest hurdles.

Delegate Delores McQuinn's bill passed out of the Senate Agriculture, Conservation and Natural Resources Committee on Tuesday night and rereferred to the Senate Finance and Appropriations Committee, while Senator Jennifer McClellan's bill was approved by Commerce Agriculture and Natural Resources Subcommittee of the House Natural Resources Committee.

[HB 1509 \(McQuinn\)](#) and [SB 1073 \(McClellan\)](#) create the Virginia Food Access Investment Program and Fund, which will provide funding for the construction, rehabilitation, equipment upgrades, or expansion of grocery stores, small food retailers, and innovative food retail projects in underserved communities. The effort is a refreshed and revamped form of a bill Delegate McQuinn has carried numerous times the past several years seeking to create the Virginia Grocery Investment Fund (VGIF). While the VGIF sought exclusively to provide funding for public-private partnerships that would aid in opening and expanding grocery stores in underserved communities ("food deserts"), the VFAIF has *two* components, one focusing on infrastructure and one focusing on nutrition efforts.

Through a selected Community Development Financial Institution (CDFI), the VFAIF will provide funding for the construction, rehabilitation, equipment upgrades, and/or expansion of grocery stores, small food retailers, and innovative small food retail projects in underserved communities.

On the nutrition incentive side, the Virginia Department of Agriculture and Consumer Services (VDACS) will partner with public and private sector partners to increase the number of Supplemental Nutrition Assistance Program (SNAP) retailers who participate in the Virginia Fresh Match Incentive Program. The Incentive Program provides SNAP recipients with a \$1 to \$1 match for nutritious fruits and vegetables.

SB 1073 will now be heard by the full House Appropriations Committee while HB 1509 will be heard by the Senate Finance and Appropriations Committee. These bills are not expected to run into much trouble in either committee since each chamber has included funding for this program in their budget recommendations and each committee has already heard each bill's counterpart.

VACo has been proud to support the VFAIF and speak on behalf of these bills in subcommittee and committee hearings.

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

Car tax exemption mandate moving forward after all

The Senate Finance and Appropriations Committee reversed course earlier this week and reported [HJ 103 \(Helmer\)](#), which would mandate a personal property tax exemption for one motor vehicle owned by a veteran with a 100 percent service-connected, permanent, and total disability, and its companion legislation, [HB 1268](#), which places the amendment on the ballot in November. Earlier in the session, the committee had continued the Senate version of this legislation to 2021, along with a set of other bills dealing with certain tax preferences for veterans.

VACo opposes mandating additional local tax exemptions, as the existing exemption for real property of disabled veterans and their surviving spouses and the surviving spouses of servicemembers killed in action represented an estimated \$53 million in lost revenue to localities in 2018, according to information collected by Commissioners of the Revenue. Localities already have the authority to apply a reduced tax rate to motor vehicles of veterans with certain disabilities, and several localities are already using this authority to provide tax relief.

This is the second year for consideration of the amendment, which must pass twice in identical form before being placed on the ballot; in 2019, the House passed a local-option version, while the Senate preferred the mandatory approach, which ultimately prevailed in conference. Passage of HJ 103 on the Senate floor is all but assured, and voters can expect to see this exemption as a ballot question in November. Legislation that would have authorized the state to

reimburse localities for foregone revenues associated with the existing mandatory real property tax exemptions was continued to 2021 in the Senate Finance and Appropriations Committee; House versions were reported from the House Finance Committee and sent to the House Appropriations Committee, where they were never taken up.

VACo Contact: [Katie Boyle](#)

Perennial school support staff health insurance credit bill advances

Legislation requiring school divisions to provide a health insurance credit (HIC) of \$1.50 per year of service to all retired members of local school divisions (other than teachers) with at least 15 years of credible service has advanced to the Senate floor. [HB 1513 \(McQuinn\)](#) originally required school divisions to provide a health insurance credit of \$4 per year of service, but was amended in the House to the reduced figure. The bill also gives local school divisions the option of providing an additional \$1 per year for a total credit of \$2.50, as well as removing the \$45 cap for monthly payments.

An HIC is provided to eligible retirees as a reimbursement to assist with the cost of employee health insurance premiums. Retirees are reimbursed based on their number of years of service and the credit amount per year of service. Under the Code of Virginia, the Commonwealth currently provides the state share of a \$4 HIC for teachers recognized and funded under the Standards of Quality (SOQ). As with SOQ salaries, the state and local share of this HIC is determined by the composite index of local ability-to-pay (LCI). This is one of several HIC overseen by the Virginia Retirement System (VRS). Employer contribution rates are calculated by VRS staff and the current proposed rate for the biennium for the teacher HIC is 1.21 percent.

The HIC for non-teacher local employees is currently set at \$1.50 per year of service, but participation is optional for localities and school divisions. Currently, 37 school divisions have opted to provide this HIC to their eligible employees. The legislation as written would require the remaining 96 school divisions to provide this HIC. Unlike the employer rates for the teacher HIC, each of the HIC for local employers is individually actuarially rated. However, VRS [calculated](#) that the increase in annual cost as percentage of covered payroll would rise 0.02 percent for participating school divisions and 0.89 percent for non-participating school divisions if HB 1513 were enacted.

The House budget proposal contains an [amendment](#) providing approximately \$1 million in General Funds in each year of the biennium for the state share of the expanded HIC proposed. The total local fiscal impact of the legislation would be \$2.9 million in FY 2021 and in subsequent years. HB 1513 would impose an

unfunded mandate on localities and VACo has expressed concerns over this legislation for that reason.

As there was no Senate companion legislation to this bill and the Senate budget does not contain an amendment funding the fiscal impact to the Commonwealth, the Senate Finance and Appropriations Committee amended the bill by adding the financial contingency clause before reporting the bill unanimously, 15-0. This means that even if passed, the bill will not become effective unless the General Assembly includes an appropriation for the expanded HIC in the final form of the budget.

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

Important solar siting agreement legislation passes Senate

An important bill introduced by Delegate Keith Hodges relating to siting agreements for solar energy facilities has reported out of the Senate Local Government Committee and will now head to the Senate floor for consideration.

[HB 1675 \(Hodges\)](#) requires any applicant seeking to locate a commercial solar energy or storage facility on any census tract meeting the eligibility requirements for an opportunity zone as designated by the federal Internal Revenue Service to execute a siting agreement with the host locality in which the census tract is located, prior to the issuance of a permit by rule or certificate of public need. The bill grants localities various powers in executing such siting agreement and contains certain requirements for the agreement provisions. The bill does not apply to any solar photovoltaic (electric energy) generation or storage facility that has received zoning or site plan approval, preliminary or otherwise, from the host locality on or before January 1, 2020.

HB 1675 essentially seeks to mimic the siting agreement process that localities already use for landfills.

This bill previously passed the House of Delegates by a vote of 89-7, and on Wednesday afternoon it passed the Senate with a substitute. HB 1675 will now be reconsidered by the House of Delegates so they can deliberate and vote on the Senate's new wording.

VACo supports HB 1675 and has spoken in favor of this important legislation throughout the General Assembly session.

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

House and Senate enhance a local government's ability to regulate drones

With just over a week remaining in the 2020 legislative session, both the House and Senate have approved legislation that enhances a local government's ability to regulate the operation of unmanned aerial systems (colloquially referred to as UAS or, more simply, drones) on their own properties.

[HB 742 \(Bulova\)](#) incorporated several other bills that were introduced that had the same – or at least a similar – objective and ultimately takes a three-pronged approach:

- First, it authorizes a political subdivision, by ordinance or regulation, to regulate the take-off or landing of certain unmanned aircraft on property owned by the political subdivision in accordance with the rules and regulations adopted by the Department of Aviation.
- Second, the bill requires the locality to report the ordinance or regulation to the Department and directs the Department to publish a summary on the locality's website.
- Finally, the bill directs the Department to develop rules and regulations specific to take-offs and landings in consultation with representatives of the unmanned aircraft system industry, small and medium-sized businesses utilizing unmanned aircraft systems, localities, and other stakeholders.

HB 742 passed the House of Delegates by a 96-0 vote and the Senate by a 39-0 vote. The bill is now before the Governor.

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

Workers' compensation employer notification requirement bill advances with amendments

Legislation requiring employers to notify employees who have filed a claim for workers' compensation within 30 days was reported from the Senate Commerce and Labor Committee unanimously 14-0 with amendments. [HB 46 \(Carter\)](#) stems from a [recommendation](#) made by the Joint Legislative Audit and Review Commission (JLARC) as part of its recent [report](#) on Virginia's Workers' Compensation System and Disease Presumptions.

Current [code](#) requires most employers (including local governments) to carry workers' compensation insurance in order to cover their workers in the event of a

work injury. According to the JLARC report, workers in Virginia wait slightly longer to receive compensation benefits in comparison to other states. The median wait time to receive wage replacement benefits in Virginia after date of injury is 27 days. For certain claims such as those involving presumptive illnesses, in which insurers are often required to conduct extensive reviews of claims involving employee life history and health, the wait time can be much longer. Insurers often need to satisfy the terms of reinsurance contracts to prevent catastrophic losses and to determine the validity of claims.

These delays can often be frustrating to employees seeking a claim. According to a survey of firefighters conducted by JLARC staff, responsiveness of the employer's insurance company was the second most common challenge experienced by firefighters in seeking workers' compensation benefits. Virginia currently has no requirement by law for insurers to notify a worker of their decision within a certain timeframe. The Virginia Workers' Compensation (VWC) has an administrative rule that insurers must respond to an injured worker's request for benefits within 20 days, but according to JLARC has trouble enforcing it.

Representatives of the insurance industry have expressed concern that by requiring employers to respond to an employee claim within a specified timeframe as to whether they intend to accept the claim, deny the claim, or need more information to make such a determination could be problematic, especially for complicated claims such as those involving presumptive illnesses. As such, the bill was amended in the Senate Commerce and Labor Committee to exempt presumptive illnesses from the 30-day notification requirement as well as allowing employers to send notice via email if the employee consents to such communication.

As previously [reported](#), VACo staff have given testimony regarding legislation adding certain diseases to the list of presumptive and occupational diseases covered under the Workers' Compensation Act and will continue to evaluate and report on related legislation.

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

Bill requiring comp plan modifications for climate change fails to advance

A bill seeking to establish climate change planning requirements for state and local government entities failed to report out of the Senate Agriculture, Conservation and Natural Resources Committee on Tuesday night.

[HB 672 \(Willett\)](#) sought to establish a policy to prevent and minimize any actions that contribute to the effects of climate change in the Commonwealth. More

specifically, the bill required state agencies to examine any new regulation in furtherance of this policy and required local governments and regional planning commissions to consider the impacts from and causes of climate change in adopting a comprehensive plan, regional strategic plan, or zoning ordinance.

Due to concerns about a lack of clear definitions that the state or local governments could use as well as an overarching hesitation to alter the Code of Virginia provisions related to comprehensive plans, the Committee elected to continue the bill to 2021. This means that the legislation is effectively dead for the year but could be reevaluated in the next legislative session.

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

Clean energy project financing bill survives Senate Finance

[HB 654 \(Guy\)](#) authorizes the Department of Mines, Minerals and Energy (DMME) to sponsor a statewide clean energy financing program. More specifically, this legislation would enable DMME to engage with a private entity in order to develop and administer a statewide Commercial Property Assessed Clean Energy (PACE) program.

PACE is an innovative financing mechanism that enables low-cost and long-term funding for energy efficiency, renewable energy, and water conservation projects. The appeal of PACE is that it can cover up to 100 percent of a project's upfront hard and soft costs, and then can be repaid on the property tax bill over a period of up to 30 years, enabling longer payback periods that can be cash flow positive from day one. PACE financing is repaid as an assessment on the property's regular tax bill and is processed the same way as other local public benefit assessments (such as sidewalks or sewers).

While several localities have already adopted their own local C-PACE programs, many localities do not have the time or resources to develop and administer their own. HB 654 will rectify this, creating a statewide framework that any locality could decide to take advantage of.

HB 654 already passed the House of Delegates by a wide margin and is expected to see similar success on the Senate floor. The Senate will take a final vote on this measure within the next few days.

VACo supports this legislation and has been pleased to speak in favor of the bill several times during committee hearings.

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

Tree preservation legislation passes both chambers, ready for Governor's signature

Having already passed the House of Delegates once earlier this session, [HB 520 \(Bulova\)](#) successfully advanced in the House a second time this week – this time with amendments tacked on by the Senate. The bill will now head to the Governor's desk.

HB 520 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). The bill was the result of several months of stakeholder conversations and negotiations between VACo, the Home Builders Association of Virginia (HBAV), the Virginia Municipal League (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).

[As previously reported](#), while HB 520 encountered no real opposition in either Chamber, the Senate did opt to amend the bill to require that the findings and final report of this study group not only be published by the DEQ but also reported to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources. This will ensure that all relevant leaders in both the executive and legislative branches will be fully appraised of the important work this group does and will be able to act on any recommendations made in time for the 2021 legislative session.

VACo has been proud to support and speak on behalf of HB 520 over the course of this General Assembly session. We look forward to the Governor signing this into law.

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](#)