



VACo County Government Day Bulletin
Thursday, February 6, 2020

Schedule of activities | Omni Richmond Hotel

- 9 a.m.** VACo Board of Directors | Potomac Room

- 11 a.m.** Registration | Top of the Grand

- 1130 a.m.** Lunch | (James River Foyer)

- Noon** County Government Day | James River Ballroom
 - The Honorable Governor Ralph Northam
 - Jim Regimbal | Fiscal Analytics
 - VACo Team Legislative Reports

- 130 p.m.** Closing address and adjournment

- Afternoon** Visit the Capitol to speak with legislators and observe committee meetings

- 530 p.m.** Reception

Budget Amendments

VACo worked with members of the General Assembly and partner organizations to introduce a package of budget amendments that address key local government priorities, and are supporting several other amendments requested by partner organizations.

Budget proposals are being considered by the House Appropriations and Senate Finance Committees in advance of reporting their respective budgets on Sunday, February 16.

Please thank the patrons of these amendments and encourage your General Assembly members to support the proposals, particularly if your legislators serve on the [House Appropriations](#) or [Senate Finance and Appropriations](#) Committees.

Elimination of K-12 Support Position Cap

[Item 136 #1h \(Mugler\)](#)/[Item 136 #1s \(Deeds\)](#)/[Item 136 #2s \(Lucas\)](#) direct the Secretary of Education and the Secretary of Finance, in consultation with the appropriate legislative committee chairs, to develop a plan to eliminate the cap on recognition of support positions in the Standards of Quality and instead revert to recognition of staffing levels in accordance with prevailing local practice. The plan must be submitted before the next legislative session and contain a schedule for full elimination of the cap by FY 2025.

KEY POINTS

- The support cap places an artificial limitation on the number of support positions for which the state will share costs. These positions, such as school social workers and IT professionals, play an important role in the operation of a school system. Eliminating the state's share of funding for these positions does not eliminate the need for these services.
- This amendment allows for a phase-in of full funding over several fiscal years, similar to the approach taken by the General Assembly in returning to full funding of the actuarial rates for the Virginia Retirement System.

Removal of Certain K-12 Positions from the Support Position Cap

[Item 145 #23h \(Davis\)](#)/[Item 145 #8s \(Barker\)](#)/[Item 145 #10s \(Ebbin\)](#) remove certain student support positions -- school psychologists, school social workers, school nurses, and other licensed behavioral health positions -- from the support cap and provide the state's share of funding staffing for these positions based on prevailing local practice, as was done before the imposition of the cap. [Item 145 #8h \(Heretick\)](#)/[Item 145 #28h \(Hayes\)](#)/[Item 145 #7s \(Spruill\)](#)/[Item 145 #9s \(Boysko\)](#) are similar.

KEY POINTS

- Students have increasingly complex medical and mental health care needs, and these specialized positions are important in ensuring that these needs can be met so that students can succeed at school.
- This amendment is similar to the Virginia Board of Education's 2019 prescription to remove mental and behavioral health positions from the support position funding cap and provide local flexibility as to which positions are most needed in each school division.

Funding for Sheriffs' Departments with Law Enforcement Responsibility

[Item 68 #3h \(LaRock\)](#)/[Item 68 #4h \(Delaney\)](#)/[Item 68 #3s \(Bell\)](#) and [Item 75 #1s \(Bell\)](#) provide funding for 237 sheriffs' deputies in FY 2021 and an additional 21 deputies in FY 2022 in order to meet the statutory staffing ratio of 1 deputy per 1,500 in population in localities in which the sheriff has primary responsibility for law enforcement.

KEY POINTS

- This staffing ratio has not been funded since FY 2008, leaving localities to step in to fund positions needed to preserve public safety.
- In addition to traditional criminal justice responsibilities, the entity with primary law enforcement responsibility in each locality is tasked with conducting mental health transports for individuals subject to emergency custody orders or temporary detention orders, which can pose a significant strain on law enforcement, especially when individuals must be transported long distances to find an available bed at a psychiatric hospital. The state has worked to fund an alternative provider, but law enforcement is still expected to be responsible for approximately half of mental health transports, making full staffing essential.

Jail Per Diem Payments

[Item 69 #1h \(Hope\)](#)/[Item 69 #1s \(Lucas\)](#) provide an 18 percent increase in jail per diem payments to reflect the equivalent increase in inflation (as measured by the Consumer Price Index) since the last time per diem payments were adjusted (in 2010).

KEY POINTS

- During the recession in 2010, the state reduced local-responsible per diem payments by half, from \$8 per day to \$4 per day; the payments for state-responsible inmates were changed from \$8 per day for the first 60 days and \$14 per day thereafter to a standard rate

of \$12 per day. The Compensation Board estimates that the average operating cost to localities per inmate per day was \$48.05 in FY 2018.

- Additional resources will be necessary for local and regional jails to comply with behavioral health and medical care standards that are currently under development by the Board of Corrections at the direction of the 2019 General Assembly.

Assistance to Localities with Election Security Requirements

[Item 83 #1h \(Sickles\)](#) [amendment proposed to the “caboose” FY 2020 budget]/[Item 83 #1s \(Deeds\)](#) [amendment proposed to the “caboose” FY 2020 budget]/[Item 86 #6s \(Deeds\)](#) [amendment proposed to the biennium budget] express the General Assembly’s intention that the most recent allocation of federal funding to Virginia under the Help America Vote Act would be provided to localities to assist them in complying with election security standards adopted as a result of legislation enacted in 2019 or to assist with future security standards adopted by the State Board of Elections.

KEY POINTS

- In November 2019, the State Board of Elections adopted election security standards for local information technology systems that interact with the state’s voter registration system.
- As part of the Department’s work to implement the new standards, localities are required to complete two self-assessments to develop a baseline for readiness to implement the new standards. Results of these self-assessments are expected to be used by the Department to determine how best to assist localities within resources available to the Department.
- The federal budget agreement signed in December 2019 includes \$425 million in Help America Vote Act funds, of which \$10.2 million is expected to be allocated to Virginia, with a \$2 million state match. This federal funding would be a natural opportunity to assist localities in complying with these security requirements.

Eligibility for Virginia Telecommunication Initiative Funding

[Item 114 #5h \(Bloxom\)](#)/[Item 114 #1s \(Lewis\)](#) broaden eligibility for Virginia Telecommunication Initiative (VATI) funding such that a local government or other public entity could qualify for funding. The amendments also provide for local government participation on the broadband telecommunications advisory group required to be convened by the Chairman of the Virginia Growth and Opportunity Board.

KEY POINTS

- This amendment provides greater access to grant funds to local governments that finance, build and operate network infrastructure in partnership with commercial internet service providers. Specifically, the amendment clarifies that grant funds can be used to supplement construction costs by both the private sector and local governments. This added clarity will provide greater flexibility to local governments seeking to find the most cost-effective solution to provide internet access to currently unserved areas.
- There will be times when the most cost-effective solution will involve local governments building, owning and operating parts of the broadband infrastructure. One such example could be fiber optic lines that are made available to private sector partners providing service to end users.
- This language does not change the purpose or priority of VATI to fund public-private partnerships. It simply enhances the ability to do so.

Service Charges In Lieu of Taxes for State Correctional Facilities

[Item 402 #6h \(Tyler\)](#)/[Item 402 #26s \(Ruff\)](#) provide funding for service charges levied in lieu of property taxes on state correctional facilities and eliminate budget language that overrides the existing statutory mandate for the Department of Corrections to pay these service charges.

KEY POINTS

- Historically the state has recognized that the presence of a large proportion of non-taxable property owned by the Commonwealth within a locality could stress local revenues.
- Virginia Code allows service charges to be imposed on certain real estate owned by the Commonwealth if the value of all such property within a locality exceeds 3 percent of the value of all real property within a locality. The service charge must be based on the assessed value of the state-owned tax-exempt property and is generally limited to the costs incurred by the locality for police and fire protection and refuse collection and disposal.
- The 2010 Appropriations Act eliminated this assistance to localities housing state prisons, beginning in FY 2011. The amendment provides approximately \$1.6 million per year to restore these payments.

Aid to Localities with Police Departments

[Item 408 #1h \(Avoli\)](#)/[Item 408 #1s \(Marsden\)](#) provide additional funding for localities with police departments (“HB 599”) in accordance with the statutory requirement for this funding to grow in tandem with expected growth in state General Fund revenues.

KEY POINTS

- The introduced budget level-funds HB 599 appropriations despite expected growth in each year of the biennium (4.5 percent in FY 2021 and 3.7 percent in FY 2022). The amendment provides \$8.6 million in FY 2021 and \$16 million in FY 2022 to fund HB 599 in accordance with expected state General Fund growth, in line with the Code of Virginia requirements.
- If the General Assembly had funded the program in accordance with state statute in the past, the annual appropriation would be \$359.1 million in FY 2022 (rather than \$191.8 million as included in the introduced budget). Localities have stepped up to meet local public safety needs, increasing their local contributions to law enforcement by 25.6 percent from FY 2007 to FY 2018.

Local Vehicle License Fees

[Item 438 #2h \(McQuinn\)](#)/[Item 438 #2s \(Marsden\)](#) provide that localities may continue to levy vehicle license fees up to the maximum state rate allowed as of January 1, 2020, regardless of any legislation enacted by the 2020 General Assembly that may adjust the state fee.

KEY POINTS

- The Governor has proposed cutting the state vehicle registration fee in half; as local fees have been limited to the state maximum rate by statute, there has been concern that reducing the state fee would jeopardize existing local fees.
- The Administration has assured VML and VACo that its intent is to preserve local authority to impose license fees at the current maximum state rate, and the omnibus transportation funding bills as introduced contain such language. The budget amendment is intended as an additional layer of protection for local fees.

“Orphan” Drainage Outfalls

[Item 430 #2h \(Tyler and Brewer\)](#)/[Item 430 #1s \(Lucas\)](#) direct the Secretary of Transportation and the Secretary of Natural Resources, in consultation with affected counties, to evaluate the prevalence across the state of drainage outfalls that originate from roads maintained by the Virginia Department of Transportation but do not have an entity assigned to maintain them, and recommend cost-effective approaches to fund maintenance of these “orphan” outfalls.

KEY POINTS

- In certain older subdivisions generic drainage easements (not assigned to any party) that extend beyond the VDOT right-of-way are not being claimed and maintained by VDOT. Years of neglect and lack of maintenance have led to severe erosion problems, affecting property owners and posing potential safety concerns.
- Since the issue involves both road maintenance and stormwater runoff, the study seeks to combine the expertise of engineers from both VDOT and the Department of Environmental Quality to come up with cost-effective solutions along with recommendations on how to fund needed repairs.

Preservation of Communication Sales and Use Tax Trust Fund

[Item 3-1.01 #1h \(Plum\)](#)/[Item 3-1.01 #3s \(Ebbin\)](#) protect the Communications Sales and Use Tax Trust Fund from further erosion by eliminating a proposed transfer of \$2 million per year from the Trust Fund to the state General Fund.

KEY POINTS

- When localities agreed to the restructuring of local telecommunications taxes in 2006 and these taxes were consolidated into a single tax collected by the state, it was understood that these revenues were to be held in trust for localities, not used for general state purposes.
- In 2018, there were savings in the telecommunications relay contract, which is funded “off the top” of the Trust Fund in accordance with statute; rather than distribute the savings to localities, the General Assembly swept \$2 million per year into the General Fund. This amendment reverses that transfer in the 2020-2022 biennium.
- Avoiding further erosion of the Trust Fund is particularly important to local governments as revenues have declined since the tax was first instituted (approximately \$475 million was collected in FY 2008, while collections had fallen to \$386 million in FY 2018).

Other Priority Amendments VACo Supports

- **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.

- 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 Standards of Quality**
[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.
- 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.
- 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.
- 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

Economic Development and Planning Steering Committee

VACo Supports County Authority to Determine Local Tax Incentives for Large Solar Projects

[SB 800 \(Lewis\)](#) 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. The legislation has been heard in the [Senate Finance and Appropriations Committee](#) two weeks in a row with VACo speaking in support of the measure both times. A final hearing and vote on the bill are scheduled for the morning of Wednesday February 5.

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

This proposed change will allow Counties to decide by local ordinance, as is allowed under Virginia law, to determine at their discretion a lower M&T rate for projects greater than 20 MW in generating capacity. 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.

KEY POINTS

- The state-mandated exemption from local tax has resulted in significant loss of both current and future revenues that would otherwise be utilized to fund state-mandated services such as public education, public safety, and human services.
- This bill allows localities, at their discretion, to provide a tax incentive for these larger installations.

VACo Opposes Bills Extending State-Mandated Exemption from Local Taxes for Large Solar Projects

[HB 1131 \(Jones\)](#), [HB 1434 \(Jones\)](#) and [SB 762 \(Barker\)](#), [SB 763 \(Barker\)](#), if adopted, would extend a state mandate to exempt utility-scale solar projects from local tax to 2030 (currently set to expire in 2024). HB 1131 and HB 1434 passed in subcommittee earlier this week on identical [6 to 4 votes](#) and will be heard in the full House Finance Committee in the afternoon of Wednesday, February 5. SB 762 and SB 763 will be heard in the Senate Finance and Appropriations Committee on the morning of Wednesday February 5.

ACTION REQUIRED – Contact [Senate Finance and Appropriations Committee](#) Members today to oppose [SB 762](#) and [SB 763](#) AND contact [House Finance Committee](#) Members to oppose to [HB 1131](#) and [HB 1434](#).

In 2016 the state mandated an 80 percent 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. Four years in advance of the expiration, the utility-scale solar construction industry wants to extend this exemption an additional six years.

VACo supports returning the authority to counties to determine local tax incentives for utility-scale solar installations and opposes any expansion or extension of the state-mandated tax exemption on local property taxes for solar equipment. 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.

KEY POINTS

- Many counties are concerned about the loss of valuable farm and forest land, critical to local economies. 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.
- HB 1131, HB 1434 and SB 762, SB 763 extend a state-mandated exemption from local tax. This extension of a mandated subsidy from local revenues will result in significant loss of future revenues that would otherwise be utilized to fund state-mandated services such as education, police, and human services.

VACo Supports Maintaining Authority of Counties to Address Impacts of Large-Scale Solar

This year the legislature is considering 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 a 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-megawatt (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.

ACTION REQUIRED – Contact your House Members today to oppose HB 657.

Despite VACo testimony in opposition, HB 657 passed [House Labor and Commerce Committee’s Subcommittee #3](#) by unanimous vote and is scheduled to be heard in full committee on the afternoon of February 4. However, VACo successfully testified on SB 893 in the [Senate Local Government Committee](#) where it was defeated by unanimous vote. With this positive result, Counties should now focus on defeating the House version.

KEY POINTS

- Many Counties are concerned about the loss of valuable farm and forest land, critical to local economies. Solar facilities 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.
- Comprehensive plan review of utility-scale solar projects is necessary to determine if the use and location are consistent with land use goals and objectives. The state should not usurp local authority to determine how such facilities fit within local landscapes.

[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, while the bills seemingly provide an option for localities to include certain industry standards when regulating the “... *use of solar panels and battery technologies*”, there is a complicated enactment clause that usurps local authority by mandating these standards apply when regulating the use of such technologies, regardless of whether such standards are incorporated in local ordinances.

It is VACo’s understanding that the purpose of the enactment clause 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, including the approval of special use permits. HB 656 passed [House Labor and Commerce Committee’s Subcommittee #3](#) by a [vote of 9 to 1](#) and is scheduled to be heard in full committee on the afternoon of Tuesday, February 4. SB 875, at the urging of VACo, was amended in the [Senate Local Government Committee](#) to remove the requirement included in the enactment clause.

ACTION REQUIRED – Contact your House Members today to oppose HB 656.

KEY POINT

- Differences in solar panels and solar storage technologies, regardless of whether they meet certain industry standards, should be subject to local zoning authority regarding their use and location.

VACo Supports Bill to Require Advance Notice for Placement of Wireless Infrastructure

[HB 554 \(Van Valkenburg\)](#) deals with wireless communications infrastructure and allows a locality to disapprove an application if the applicant has not given written notice to adjacent landowners at least 15 days before it applies to locate a new structure in an area where all cable and public utility facilities are required to be placed underground. The bill is on the House floor.

Education Steering Committee

K-12 Education Funding

To assure each child in Virginia receives the quality education necessary for his or her success, VACo supports fully funding the Standards of Quality as recommended by the Board of Education, where these recommendations coincide with prevailing local practice.

As introduced, the [Governor's 2020-2022 Budget \(HB 30\)](#) includes:

- Provides \$808.5 million in additional funding over the course of the biennium for formula-driven enrollment and program updates associated with rebenchmarking the state cost of Direct Aid to Public Education to reflect changes in enrollment, funded instructional salaries, employee retirement and other post-employment benefits, inflation, and other measures.
- Provides \$145.1 million in FY 2022 for the state share of a three percent salary increase, effective July 1, 2021, for funded Standards of Quality instructional and support positions. The funding is not intended as a mandate to increase salaries and eligible school divisions must certify that average salary increases of a minimum of three percent have been or will be provided either in the first year, the second year, or through a combination of the two years of the biennium.
- Provides \$21.2 million in FY 2021 and FY 2022 for the state share to align school counselor staffing ratios with the Standards of Quality as prescribed in § 22.1-253.13:2 of the Code of Virginia.
- Effective with the 2021-2022 school year, provides \$56.7 million in FY 2022 for the state share to reduce the required Standards of Quality ratio to one school counselor for every 250 students at every grade level.
- Historic investment of \$50.1 million in FY 2021 and \$90 million in FY 2020 to increase the “At-Risk Add-On” for educationally at-risk students. Also raises the amount of aid disbursed based on the concentration of children qualifying for the

federal Free Lunch Program to between one and 23 percent in FY 2021 and between one and 25 percent in FY 2022.

- Provides \$50 million in NGF in FY 2021 and \$75 million in NGF in FY 2022 for per pupil allocation payments to local school divisions from projected “Games of Skill” revenues. If regulation and taxation of these games is enacted, local school divisions shall have flexibility to use such funds in a manner that best supports the needs of local school divisions.
- Provides \$13.3 million in FY 2021 and \$14.3 million in FY 2022 for the state share of additional instructional positions supporting limited English proficiency students.
- Provides \$5.3 million in FY 2021 and FY 2022 to reduce or eliminate the cost of school breakfast and school lunch for students who are eligible for reduced price meals.
- Provides \$2.6 million in FY 2021 and \$2.3 million in FY 2022 for no-loss funding to ensure that no locality loses state funding for public education as compared to that locality’s FY 2020 state distribution.
- Additional details on K-12 funding are available in the Superintendent of Public Instruction’s December 20, 2019, [Memorandum](#).

Early Childhood

- Provides \$36 million in FY 2021 and \$49.4 million in FY 2022 to increase the Virginia Preschool Initiative (VPI) per pupil allocation to \$6,959 in FY 2021 and to \$7,655 in FY 2022, provide additional support for students on waitlists, and create a pilot program for at-risk three-year-olds.
- The Virginia Department of Social Services (VDSS) and the Virginia Department of Education (VDOE) are directed to develop a plan to transfer the Child Care Development Fund grant from VDSS to VDOE by July 1, 2021. The goal of this transfer is to house responsibility of childcare and education programs under one agency.

Workforce Development

- Provides \$72.5 million in FY 2021 and FY 2022 for the Get Skilled, Get a Job, Give Back Program (G3) to offer financial assistance to low and middle-income Virginians enrolled in a Community College program that leads to an occupation in a high-demand field.
- Provides \$17.5 million in FY 2021 and FY 2022 for the New Economy Workforce Credential Grant program, an increase of \$4 million relative to FY 2020.

- Retains \$240,000 each year for the Grow Your Own Teacher pilot program, which was established in 2019.

KEY POINTS

- When adjusted for inflation, state direct aid per-pupil spending on public education in FY2020 is still less than funding levels in FY2009, despite increased educational mandates, increased numbers of students, increased numbers of students with special needs, and state policy changes.
- Localities are disproportionately bearing the cost of their locality's needs and must have adequate support from the state. In FY2019, local school divisions spent approximately \$4.2 billion above required local effort.

Board of Education Standards of Quality Revision Inspired Legislation

The Virginia Board of Education prescribed their biannual [revisions](#) to the state's Standards of Quality (SOQ) in November 2019. Though Governor Northam funded 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 remain unfunded. These bills seek to codify the Board's recommendations and would require significant state and local funding:

- [HB 1316 \(Aird\)](#)/ [SB 728 \(McClellan\)](#) codifies several changes to the Standards of Quality, including requiring the establishment of a unit in the Department of Education to oversee work-based learning statewide and requires the Board of Education to establish and oversee the local implementation of teacher leader and teacher mentor programs and the establishment of a unit in the Department of Education to oversee principal mentorship. 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, require each school board to assign licensed personnel in a manner that provides an equitable distribution of experienced, effective teachers, require state funding in addition to basic aid to support at-risk students, lower the ratio of English language learner students to teachers, lower the ratio of students to assistant principals and school counselors in elementary, middle, and high schools, and 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. HB1316 reported from House Committee on Education 18-3 and was referred to House Appropriations. SB728 has yet to be heard in Senate Education and Health Public Education Subcommittee.

School Modernization Bills

Many localities face significant challenges in raising enough funds to undertake capital school construction or renovation projects. According to a 2013 [report](#), more than 40 percent of Virginia's public school buildings and facilities were built at least 50 years ago and another 20 percent were constructed at least 40 years ago. The condition of the facilities in which children are educated has a direct impact on their ability to learn. Several pieces of legislation seek to address this issue.

- [SB 4 \(Stanley\)](#) creates the Public School Assistance Fund and Program, to be administered by the Department of Education, for the purpose of providing grants to school boards to be used solely for the purpose of repairing or replacing the roofs of public elementary and secondary school buildings in the local school division. The bill permits any school board in the Commonwealth to apply for Program grants but requires the Department of Education to give priority in the award of grants to school boards that demonstrate the greatest need based on the condition of existing school building roofs and the ability to pay for the repair or replacement of such roofs. Senate Finance and Appropriations reported the bill with an amendment 15-0.
- [SB 5 \(Stanley\)](#) requires the Board of Education to prescribe by regulation uniform minimum standards for the erection of modern public-school buildings and the modernization of existing public-school buildings for the purpose of promoting positive educational outcomes for each public elementary and secondary school student. The bill requires each school board to annually (a) assess and report to the Board the extent to which each public school building in the local school division complies with such uniform minimum standards and (b) submit to the Board a long-range plan for compliance with such uniform minimum standards. Senate Finance and Appropriations reported the bill with an amendment 15-0.
- [SB 888 \(McClellan\)](#) establishes the Commission on School Construction and Modernization for the purpose of providing guidance and resources to local school divisions related to school construction and modernization and making funding recommendations to the General Assembly and the Governor. The bill has a sunset date of July 1, 2026, with a provision that if the Commission does not receive funding in the appropriation act after its first year, it will sunset on July 1 of the following year. Senate Rules reported the bill with amendments 15-0.

Early Childhood Education

One area of focus for Governor Northam's Children's Cabinet is early childhood development and school readiness. Early childhood care and education programs like childcare and Head Start are currently administered across multiple agencies. Two bills seek to make changes aimed at streamlining Early Childhood services:

- [HB 1012 \(Bulova\)/ SB 578 \(Howell\)](#) requires the Board of Education to establish a statewide unified public-private system for early childhood care and education in the

Commonwealth to be administered by the Board of Education, the Superintendent of Public Instruction, and the Department of Education. The bill transfers the authority to license and regulate child day programs and other early child care agencies from the Board of Social Services and Department of Social Services to the Board of Education and Department of Education. The bill maintains current licensure, background check, and other requirements of such programs. Such provisions of the bill have a delayed effective date of July 1, 2021. The bill requires the Superintendent of Public Instruction to establish a plan for implementing the statewide unified early childhood care and education system and requires the Department of Social Services and the Department of Education to enter into a cooperative agreement to coordinate the transition. The bill also requires the Board of Education to establish, no later than July 1, 2021, a uniform quality rating and improvement system designed to provide parents and families with information about the quality and availability of certain publicly funded early childhood care and education providers. HB1012 was reported by the House Committee on Education 21-1 a referred to House Appropriations Subcommittee on Elementary and Secondary Education. SB578 passed the Senate 31-5.

School Counselor Ratio Reduction Bills

[HB 1515 \(McQuinn\)](#) / [SB 880 \(Locke\)](#) requires school boards to employ school counselors in accordance with increasing ratios to align ratios 2021-2022 school year with Governor Northam's original proposal from the 2019 General Assembly session. The ratio effective for the 2021-2022 school year will be one full-time school counselor for every 250 students at each level of elementary, middle, and high school. HB1515 was recommended to be struck from the docket by the House Committee on Education SOL and SOQ Subcommittee 8-0. SB880 reported from Senate Education and Health 11-2 and was referred to Senate Finance and Appropriations. Though reducing the ratio of school counselors in the Standards of Quality will increase state direct aid to education and the Governor has accounted for this in his budget proposals, local matching funds will still be required if these bills are enacted.

School Security Officer Return to Work bills

Many localities face challenges recruiting and retaining School Resource and School Security Officers. These bills seek to provide localities with the option of additional incentives for retired law-enforcement officers to return to work in school setting. VACo supports funding that would serve as an incentive for local school divisions to hire additional Resource Officers, School Protection Officers, or other security personnel measures:

- [HB 1495 \(Torian\)](#) allows retired law-enforcement officer to continue to receive his service retirement allowance during a subsequent period of employment by a local school division as a school resource officer or school security officer, so long as he has a bona fide break in service between retirement and reemployment of 12 months, did not retire under an early retirement program, and did not retire under the Workforce Transition Act

of 1995. Submitted at the request of Prince William County. House Appropriations reported HB1495 with a substitute 21-1.

- [SB 54 \(Cosgrove\)](#) is similar legislation limited to school security officers. The bill passed the Senate 40-0 with a financial enactment clause.

Environment and Agriculture Steering Committee

Critical Funding Introduced in the Governor's Proposed Budget

The Governor introduced a number of 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.

The Senate Finance and Appropriations Committee and the House Appropriations Committee have each expressed concern about how large these investments are, particularly as they rely on the Commonwealth's debt capacity. VACo members are encouraged to speak with their Delegates and Senators, particularly those on the money committees, to express their support for these funding levels.

DEQ Stakeholder Group to Study Tree Preservation

VACo supports [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). The DEQ is directed to report the group's findings by November 1, 2020, and to include a recommendation as to whether the planting or preservation of trees shall be deemed a creditable land cover type or BMP and, if so, how much credit shall be given for its optional use. As drafted, the bill listed future stakeholders as development and construction industry

representatives, environmental technical experts, local government representatives, and others and that technical assistance shall be provided to the DEQ by the Department of Forestry and the Department of Conservation and Recreation.

HB 520 was the result of several months of stakeholder conversations and negotiations between VACo, VML, Arlington County, and the Home Builders Association of Virginia (HBAV) 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).

HB 520 reported out of the House Committee on Agriculture, Chesapeake and Natural Resources by a vote of 21-1 and passed the House of Delegates by a vote of 82-17. The bill will now be heard in the Senate Committee on Agriculture, Conservation and Natural Resources.

Virginia Food Access Investment Fund

VACo supports [HB 1509 \(McQuinn\)](#) and [SB 1073 \(McClellan\)](#), which creates the Virginia Food Access Investment Program and Fund to 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 last 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 (so-called “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 reported out of the Senate Committee on Finance and Appropriations 13-0 and will now be heard on the Senate floor. HB 1509 was reported and rereferred from the House Committee on Agriculture, Chesapeake and Natural Resources to the House Committee on Appropriations.

Statewide Commercial PACE Program Advances

Legislation introduced by Delegate Nancy Guy to establish a mechanism for a statewide clean energy and energy efficiency financing program has advanced to be voted on by the full House of Delegates.

[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.

KEY POINTS

- 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).

HB 654 reported out of the House Committee on Counties, Cities and Towns by a vote of 19-3 and will be taken up on the House floor later this week. VACo is pleased to support this bill.

Problematic Animal Shelter Bills Fixed for the Year

Three problematic and potentially expensive bills pertaining to animal shelter practices and policies have been taken care of for the year.

[SB 304 \(Stanley\)](#) requires any public or private animal shelter or releasing agency to report on an annual basis the euthanasia rate for animals at such shelter or agency to the State Veterinarian. As originally introduced, the bill sought to require the State Veterinarian to notify the Board of Pharmacy of any such shelter that has a euthanasia rate greater than 50 percent and prohibit the Board of Pharmacy from registering any such shelter to purchase, possess, or administer certain euthanasia drugs. VACO initially opposed this legislation, however Senator Stanley ultimately agreed to strip the possible penalties and instead introduced a substitute that solely requires shelters report data on the number of acts of euthanasia performed and the reasons why. As amended, SB 304 reported out of the Senate Committee on Agriculture, Conservation and Natural Resources unanimously.

[SB 310 \(Stanley\)](#) requires a public animal shelter to wait three days before euthanizing a dog or cat when a person has notified the shelter of his intent to adopt or take custody of the animal. The shelter must make reasonable efforts to accomplish the release of the animal but is not required

hold the animal if it has reason to believe that the animal has seriously injured a human or the animal meets certain other specified conditions for euthanasia. VACo and a number of other stakeholders opposed the bill as introduced due to its high fiscal impact on localities. Recognizing these concerns, however, Senator Stanley agreed to strip the three-day requirement from the legislation and instead offered a substitute bill that simply requires each public animal shelter to adopt a policy that provides that when notice has been given to the shelter of the intent of a releasing agency to adopt or take custody of an animal, the animal shall not be euthanized and shall be kept for a certain number of days. With this substitute language, SB 310 reported out of the Senate Committee on Agriculture, Conservation and Natural Resources unanimously.

Finally, [HB 1279 \(O'Quinn\)](#) sought to increase from five to 10 the number of days an animal confined by a public or private animal shelter or releasing agency shall be kept prior to disposal of the animal unless sooner claimed by the rightful owner. The bill also increases from five to 10 the number of additional days such animal shall be held if the owner or custodian of the shelter determines that the animal has a collar, tag, license, tattoo, or other form of identification. Due to the fiscal impact this legislation would have had on localities, VACo opposed HB 1729. Ultimately, the House Committee on Agriculture, Chesapeake and Natural Resources decided to kill the legislation by laying the bill on the table.

Forever Chemical” Bills Move Through House

Two bills seeking to study and address certain chemical contaminants in Virginia’s drinking water have been reported out the House Health, Welfare and Institutions Committee and will be heard on the floor of the House of Delegates. 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 attention lately, as there is growing concern over their links to various medical ailments.

[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. In subcommittee, HB 586 was amended several times. 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.

VACo supports HB 586, which unanimously reported out of Committee and passed the full House. The bill has now been referred to the Senate Committee on Education and Health.

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 has encountered more issues than HB 586, primarily given that it attempted to require – not permit as necessary – the Board to establish MCLs, regardless of any state findings about them. As such, HB 1257 has been altered several times, ultimately resulting in amendments that delay its enactment until January 1, 2022 and including new language that stipulates that MCLs will only be enacted as deemed necessary. HB 1257 narrowly reported from the Committee by a 13-9 vote and passed the full House 58-40.

Bill Requiring Additional Reporting for Discharges of Deleterious Substances into State Waters Passes House, Heads to Senate

A bill stipulating new reporting requirements for the discharge of deleterious substance into state waters cleared the House on Tuesday, February 4th, and will now head to the Senate.

[HB 1205 \(Tran\)](#) requires that the Department of Environmental Quality (DEQ) shall provide to the Virginia Department of Health (VDH) and local newspapers, television stations, and radio stations, and shall report via official social media accounts and email notification lists, any information pertaining to the discharge of deleterious substances (chemicals, oils, sewage, etc.) into state waters, unless the DEQ determines that the discharge will have a de minimis impact. Current law only requires that the DEQ provide this information to the local newspapers.

As originally introduced, HB 1205 was troubling, as it narrowed the reporting window from 24 hours to 8 hours. Due to concerns over the feasibility of such reporting, however, this was later amended first to 12 hours and then again back to 24 hours.

HB 1205 will now be referred to the Senate Committee on Agriculture, Conservation and Natural Resources where it will be heard after crossover.

Urban Fertilizer Program Advances

[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 Governor Northam’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 unanimously both the Senate Committee on Agriculture, Conservation and Natural Resources and the full Senate. The bill will now be heard by the House.

Stormwater Fee Exemption Bill Dries Up, Stricken for the Year

A troubling stormwater bill that has been defeated numerous times in previous years has once again been killed in the General Assembly. [SB 1067 \(Kiggans\)](#) provides that localities shall provide for full waivers of certain stormwater charges for public use airport runways and taxiways.

As with similar bills in recent years, VACo had a number of concerns with SB 1067 and opposed the legislation.

KEY POINTS

- Such an exemption will have a severe fiscal impact on a locality. Given their nature and their sheer size, airports are large contributors to water pollutants, and thus if they are exempted from their stormwater fees, those costs will be shifting to other ratepayers who in turn will have to pay a larger share.
- Legislation like this will only serve to open the door for other special interests seeking exemptions from stormwater fees. In fact, for this reason, the General Assembly has rejected this very bill before as well as similar bills seeking exemptions for churches and railroads.

SB 1067 was stricken from the docket at the outset of the February 4 meeting of the Senate Committee on Agriculture, Conservation and Natural Resources.

Finance Steering Committee

Revenue Fairness Bills Would Help Counties Provide Services, Diversify Revenue Streams

[HB 785 \(Watts and Kilgore\)](#) and similar bills [SB 484 \(Favola\)](#) and [SB 588 \(Hanger\)](#) would allow revenue diversification for counties by providing important additional tools to fund core services. HB 785 was recommended for reporting by a subcommittee of House Finance Monday morning and will be heard by the full committee this week. SB 588, which now incorporates SB 484, was reported from Senate Finance and Appropriations on February 5.

HB 785 would authorize counties to impose admissions and cigarette taxes in the same manner as those revenue sources are available to cities. The bill would authorize counties to impose transient occupancy taxes above two percent; revenue generated by taxes up to a five percent rate would either be used for purposes already authorized (so as to preserve existing arrangements made by localities) or would be used for tourism promotion. Revenues generated above a five percent rate could be used for general purposes. As amended in subcommittee, the bill would allow counties to impose meals taxes without a referendum, but if a county's meals tax referendum failed before July 1, 2020, it could not impose a meals tax until six years after that referendum.

As reported from Senate Finance, SB 588 would authorize counties to impose meals, transient occupancy, cigarette, and admissions taxes, subject to caps and subject to a delayed enactment date of July 1, 2021. Proposed enactment clauses would provide for a delay in imposition of meals taxes until July 1, 2022, in counties in which a referendum failed prior to this year, as well as directing a stakeholder workgroup to streamline the process of cigarette tax collection and a review of the differences in governance between counties and cities.

Please thank the patrons of these bills as well as patrons of related measures (Delegate Krizek, Senator Lewis, and Senator Mason, who introduced measures providing counties with meals tax authority, and Senator Locke, who introduced a bill authorizing counties to impose cigarette taxes), and talk with members of your delegation to support providing counties with additional options to meet community needs.

KEY POINTS

- Counties are funding partners with the state in providing core government services, such as K-12, public health, and public safety, and need revenue options to meet these responsibilities. It should be noted that while cities and some towns are responsible for road maintenance, those localities receive assistance from the state with this responsibility via annual maintenance payments.
- Counties are limited in their ability to raise revenues from diverse sources and must rely heavily on real estate taxes.

- The additional funding options under consideration are not new taxes. These are revenue options which are currently available to cities and 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.
- Counties are seeking this additional revenue authority without limiting existing authority currently available to cities and towns, such as cigarette taxing authority.

Support Legislation to Improve the Local Fiscal Impact Review Process

[SB 188 \(Peake\)](#) seeks to enhance the current process by which bills are reviewed for potential fiscal impacts on local governments. The measure would require that bills that would mandate additional expenditures by local governments or reduce local revenues be filed by December 15, so that there would be additional time for the Commission on Local Government staff and the local volunteers assisting them to complete their analyses before the bills would be heard. In the past, bills with a local fiscal impact were required to be introduced by the first day of the legislative session, but this deadline was repealed in 2010. SB 188 also directs the Commission on Local Government to work in cooperation with VACo and VML to develop improvements to the fiscal impact review process.

SB 188 has been referred to the [Senate Rules Committee](#) and is expected to be heard on Friday, February 7. Please encourage committee members to support the bill.

KEY POINTS

- A thorough analysis of legislation that would affect local finances is beneficial to policymakers, since localities are responsible for delivering many services to Virginians in partnership with the state.
- The high volume of bills that must be reviewed in a compressed time period makes it challenging to produce a robust analysis, particularly as local volunteers are assisting with the review process, which often coincides with the development of local budgets, in addition to their regular duties.

Car Tax Constitutional Amendments May Be Headed to Study; Helpful Bills Attempt to Mitigate Effect of Real Property Tax Exemptions on Localities

Constitutional amendments that would mandate an exemption from personal property taxes for one vehicle owned by veteran with a one hundred percent service-connected, permanent, and total disability are back before the General Assembly, having passed as “first resolution”

amendments in 2019. VACo opposed the passage of the amendments as a mandate last year, as localities already have the ability to set a different tax rate for a motor vehicle owned by a veteran with certain service-connected disabilities, and several localities are already using this authority to provide tax relief. [HJ 103 \(Helmer\)](#) has not been heard in the House; [SJ 58 \(Morrissey\)](#) was reported from Senate Privileges and Elections and referred to Senate Finance and Appropriations, where it was referred on February 5 to a subcommittee that is expected to take up a variety of measures dealing with tax relief for veterans.

VACo's concerns with the proposed amendments also derived from the way in which they expand mandatory tax relief to another type of property in light of the growing costs to localities of the existing mandatory real estate tax exemptions for disabled veterans and their surviving spouses and the surviving spouses of servicemembers who are killed in action. Information compiled by the Commissioners of the Revenue in 2019 indicated that these exemptions cost localities approximately \$53 million in 2018. VACo was encouraged to see legislation introduced this session that attempts to mitigate the effect of these exemptions on the local property tax base. [HB 363 \(Cole, M.\)](#) would provide that the state would reimburse localities in which more than one percent of the taxable real estate is exempt pursuant to the mandatory exemptions for disabled veterans and surviving spouses. Localities would document the amount of affected property in an application to the Auditor of Public Accounts, who would publish an annual list of affected localities. The Governor would be required to include in the introduced budget a proposed appropriation for a state subsidy for qualifying localities (the subsidy would exclude the amount of foregone real estate tax revenue attributable to one percent of real estate being tax-exempt pursuant to the mandatory exemptions). [HB 1496 \(Mugler\)](#) is a similar bill, but does not include the one percent threshold for a locality to qualify for the state subsidy. A companion bill to HB 363, SB 143 (Stuart), was continued to 2021 in Senate Finance and Appropriations. HB 363 and HB 1496 are expected to be reported from House Finance and referred to House Appropriations on February 5.

Please encourage your legislators to support state assistance to localities with the effects of state-mandated property tax exemptions.

General Government Steering Committee

Collective Bargaining Update

Collective bargaining is the negotiation process between an employer and a union or association comprised of workers to govern the terms and conditions of the workers' 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. VACo opposes any effort to mandate collective bargaining for public employees. Two bills seek to change provisions of the code.

[HB 582 \(Guzman\)](#) removes the prohibition on local public employers (counties, cities, towns, school boards, and regional political subdivision or body politic and corporate, designated as such by the General Assembly) from entering into collective bargaining with a union or association representing their public employees. The bill mandates that local public employers be forced into collective bargaining with their employee's representative if 30 percent of their employees in a collective bargaining unit petition to form a bargaining unit. Additionally, the majority of the votes cast in a bargaining unit can elect to designate an exclusive bargaining representative (union or employee association) to negotiate terms of employment including grievances, labor disputes, wages, hours, and other issues.

KEY POINTS

- These provisions apply to nearly all State and Local public employees, except employees of the General Assembly. The bill mandates that the Public Employee Relations Board (PERB) be established but is silent on local government representation/expertise among the three-member board. Yet this board will be deciding issues involving management of local governments and employees. The PERB would also be responsible for overseeing the election of exclusive representatives once an initial petition to has been filed.
- The cost of establishing and administering the PERB for the state is indeterminate according to the Department of Planning and Budget's [fiscal impact statement](#) and there is no funding in the budget or through member amendments to offset local costs.
- VACo requested a local [Fiscal Impact Statement](#) from the Commission on Local Government. According to the executive summary in the statement: *"A majority of localities noted that the bill would require (i) additional staff for collective bargaining contracts including ensuring compliance, (ii) additional attorneys/legal team that specialize in labor relations, (iii) and upgrading financial/payroll system to allow management and collection of dues. They also noted that their estimated cost does not include the possible increases in benefits due to collective bargaining, but the locality that provided the highest estimate is based on difference between union and nonunion compensation, which does not take into account any benefits which could be expected to greater. Some localities noted that the bill would require increase in real estate tax rate to comply with the provisions of the bill. Of those who responded with no cost, [they] noted that [the] cost of the bill indeterminate but would be significant."*
- Public employers are required to provide the personal contact information of their employees to the exclusive representative and provide a list of this updated information for all employees in the bargaining unit to the exclusive representative monthly – an additional administrative burden for local governments.
- Meetings between employees and exclusive representatives could disrupt the ability of local governments to provide core services to their constituents. Exclusive bargaining representatives are granted the right to meet with employees during the workday and shall be granted at least 30 minutes of mandatory time with new hires.

- It is problematic that there is no dedicated funding source to handle the administration of collective bargaining at the local level. Costs may 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.

For these reasons, VACo continues to oppose HB 582 and urges you to contact your legislators to oppose it as well.

[SB 939 \(Saslaw\)](#) gives the authority to local governments to adopt ordinances to allow collective bargaining by their employees. Employees in those localities would continue to be prohibited from striking. Senate Commerce and Labor reported and referred the bill to Senate Finance and Appropriations 12-3. [SB 1022 \(Boysko\)](#) was the companion to HB582, but that bill was incorporated into SB939 in Senate Commerce and Labor.

Peer-to-Peer Vehicle Rental Bills Heard in Each Chamber

Two sets of VACo/VML-supported peer-to-peer vehicle rental bills were been introduced in the General Assembly this session. [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.

KEY POINTS

- 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.
- The bills provide clarity with respect to insurance liability and protections to Virginia citizens who share their vehicle through a peer-to-peer vehicle sharing platform.
- The bills permit Virginia airports to regulate peer-to-peer vehicle sharing platforms and their use of airport property.
- The bills 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.
- The bills 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 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.

Both SB 749 and SB 735 were heard on Monday, February 3 by the Senate Committee on Commerce and Labor and were each reported and rereferred to the Senate Committee on Finance and Appropriations for further analysis. HB 891 failed to report out of subcommittee, while HB 1539 was rereferred to the House Committee on Appropriations.

Workers' Compensation Presumptive Illness Legislation

[HB 783 \(Askew\)](#) / [SB 9 \(Saslaw\)](#) adds cancers of the colon, brain, or testis 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 bill also incorporates 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 in Committee at the request of the patron to raise the years of service requirement for firefighters for hypertension and heart disease. Though there is still likely to be a fiscal impact from this legislation, the addition of years of service requirements for hypertension and heart disease should be mitigatory. HB783 passed the House unanimously, 99-0. SB9 passed the Senate 28-12.

[HB 438 \(Heretick\)](#) / [SB 561 \(Vogel\)](#) establishes that Post-Traumatic Stress Disorder (PTSD) is an occupational disease for firefighters, law-enforcement officers, and other first responders under the Virginia Workers' Compensation Act and defines qualifying events and the diagnosis and claims process required to for compensation. The bills have been modified from their original forms to be less problematic by no longer considering PTSD as a presumptive illness, however VACo staff has raised concerns over the potential local fiscal impact. HB483 reported from House Labor and Commerce Committee 19-3 and was referred to House Appropriations Subcommittee on Compensation and General Government. SB561 reported from Senate Finance 14-1 with a substitute.

Troubling Mandate for Commonwealth's Attorneys and Public Defender's Salaries Introduced

[HB 869 \(Bourne\)](#) requires 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 officer, deputy, or employee, to supplement the compensation of the public defender, or any of his deputies or employees, in the same amount as the supplement to the compensation of the attorney for the Commonwealth, or any of his deputies or employees.

The legislation is particularly troubling for multiple reasons.

KEY POINTS

- If any locality supplements their Commonwealth's Attorney's salary – as many if not most localities 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.

- Despite the bill's intention to be purely prospective, the legislation lacks clarity about grandfathering current local supplements for Commonwealth's Attorneys or what happens in the future if a Public Defender's office opens in a locality that previously did not have one.
- 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.

VACo opposes this legislation.

Legislation Reviewing and Revising Commonwealth's Attorney's Staffing and Funding Levels Continued to 2021 Legislative Session

Senator Joe Morrissey and Delegate Marcus Simon introduced legislation this session that sought to review and drastically revise funding and staffing levels for Commonwealth's Attorneys. [SB 803 \(Morrissey\)](#) and [HB 1035 \(Simon\)](#) were sweeping in nature.

KEY POINTS

- Prohibit the Compensation Board, when determining staffing and funding levels for offices of attorneys for the Commonwealth, from (i) considering the number of charges brought or the number of convictions obtained by such attorney for the Commonwealth; (ii) relying on standards devised or recommended by the attorney for the Commonwealth, law-enforcement agencies, or professional associations representing attorneys for the Commonwealth or law-enforcement officers; or (iii) using measures that increase if an attorney for the Commonwealth (a) elects to prosecute a more serious charge, (b) elects to prosecute additional charges from a single arrest or criminal incident, (c) obtains convictions rather than dismissing charges or offering reduced charges, or (d) proceeds with prosecution rather than diversion.
- Require Attorneys for the Commonwealth to pay all fees collected by them in consideration of the performance of official duties or functions into the state treasury, instead of only half of such fees.
- Require the State Treasurer to pay to the treasuries of the respective counties and cities of the attorneys for the Commonwealth a proportion of half of all such fees collected by all attorneys for the Commonwealth, as determined by each county or city's crime rate, criminal incident rate, or arrest rate.
- Change the fees collected by attorneys for the Commonwealth on trials of felony indictments from \$40 on each count to \$120 for each trial of a Class 1 or Class 2 felony indictment, or other felony that carries a possible penalty of life in prison, except robbery,

and \$40 for each trial on robbery and all other felony indictments regardless of the number of counts.

Given the sweeping and complex nature of the bill and subject matter, Senator Morrissey agreed to continue SB 803 to the 2021 legislative session and instead partake in a study of the issue over the next year. In the other chamber, Delegate Simon's bill has yet to be heard or addressed.

Unfunded Mandate for Deputy Sheriffs' Salaries Defeated for the Year

Two bills introduced by Delegate Chris Hurst and Senator Todd Pillion requiring an increase in minimum salaries for deputy sheriffs have been defeated for the year.

[HB 1302 \(Hurst\)](#) and [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 would have resulted in a total fiscal impact of millions of dollars

VACo was quick to raise concerns about the fiscal impact of this legislation as well as the dangerous precedent it would have set. We also voiced our concern this legislation would open the door for greater future financial impacts should localities' fiscal stress levels change in ensuing years.

VACo voiced our opposition to this bill and worked with Senator Pillion to forge an agreement to meet with a group of relevant stakeholders to comprehensively study the issue of deputy sheriffs' salaries and come back for the 2021 legislative session with fresh ideas. Ultimately, Senator Pillion agreed to strike his bill for the year, and Delegate Hurst's counterpart bill was continued to the 2021 legislative session.

Local Government Lobbying Disclosure Bill Fails for the Year

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.

FOIA Bills Advance

[HB 321](#) (Levine) allows a member of a public body to miss a meeting due to the serious medical condition of an immediate family member. Further, the bill extends the provision that permits governing body members to participate in an electronic meeting due to personal matters by allowing them to participate for up to two meetings per calendar year or 10 percent of the meetings held each year (whichever is greater). This bill is on the House floor.

[SB 153](#) (Stuart) provides that if a requester asks for a cost estimate in advance of a FOIA request, the time to respond is tolled for the amount of time that elapses between notice of the cost estimate and the response from the requester (e.g. the clock starts ticking on the response time when the requester responds). If the public body receives no response from the requester within 30 days of sending the cost estimate, then the request shall be deemed to be withdrawn. The bill clarifies that if a cost estimate exceeds \$200 and the public body requires an advance deposit, the public body may require the requester to pay the advance deposit before the public body is required to process the request.

The bill, which is a recommendation of the Freedom of Information Advisory Council, has passed the Senate and will likely be heard by House General Laws.

Public Comment Bill

[SB 977](#) (Suetterlein) requires a governing body to provide members of the general public with the opportunity for public comment during at least half of the regular meetings held each fiscal year. The bill has passed the Senate and will most likely be heard after crossover by the [House Counties, Cities & Towns Committee](#).

Helpful Procurement Bills

[HB 452](#) (Murphy) Raises the small purchase procedure threshold from \$100,000 to \$200,000 for goods and services other than professional services and non-transportation-related construction.

[HB 890](#) (Sickles) raises the threshold for use of construction management or design-build by local public bodies from the current \$10 million to the project cost threshold established in the procedures adopted by the Secretary of Administration for use of construction management or design-build contracts. The bill is up for its third and final reading in the House on Wednesday, Feb. 5. The bill is helpful for localities that want to use construction management or design-build.

Ban the Box Advances with Helpful Amendments

[HB 757](#) (Aird) prohibits localities from inquiring about arrests, charges or convictions on employment applications. The original bill allowed an exception for state government for sensitive positions but had no exception for local governments. This bill was amended to localities to allow the question for law-enforcement agency positions , positions for employment by the local school board, sensitive positions or any employment-related applications or questionnaires provided during or after a staff interview. Sensitive positions are defined as persons responsible for the health, safety and welfare of citizens or protection of critical infrastructure, person that have access to sensitive information and others required by state or federal law to be designated as sensitive. The bill has passed the House and has been referred to the Senate Committee on General Laws and Technology.

Resources Needed for Successful Implementation of Early Voting

[HB 1](#) (Herring) and [SB 111](#) (Howell) eliminate the current list of excuses required to cast an absentee ballot and require that in-person no-excuse absentee voting be available from the 45th day before the election through the Saturday immediately preceding an election, with some flexibility in the case of a special election.

[SB 617](#) (Deeds) is the Administration's bill to address aspects of the implementation of early voting and reflects the report adopted by the State Board of Elections in November on implementation of the more limited 2019 no-excuse absentee voting legislation. The bill authorizes local governing bodies (rather than electoral boards) to establish satellite offices for in-person absentee voting by ordinance, similar to the current authority to establish polling places for regular Election Day voting, and requires public notice of the locations and hours of operation of satellite locations (via posting on the locality's website and in the general registrar's office, or via newspaper publication if the locality does not have a website). Although the bill requires the governing body to provide sufficient funds to enable the general registrar to provide "adequate facilities" at each satellite location, the bill does not mandate a specific number or ratio of satellite locations, an important element of local flexibility for which VACo and VML had advocated during discussions with the Department of Elections last summer and fall.

During the summer and fall, VACo and VML encouraged the Administration to assist localities with resources to enable localities to implement early voting, and were grateful to see the inclusion of \$2.5 million per year in the Governor’s budget to provide full funding for general registrars’ and electoral board members’ compensation, thus freeing up local dollars that have been spent to make up the difference between the state-mandated salaries and the state-provided funding. Placeholder budget amendments have been submitted by Delegate VanValkenburg and Senator Deeds for \$250,000 and \$5 million, respectively, pending the development of fiscal impact estimates, and these efforts are appreciated. Cost estimates that were subsequently developed by general registrars for implementing 45 days of early voting have ranged from \$14-19 million.

KEY POINTS

- Please talk with members of the House Appropriations and Senate Finance and Appropriations Committees about the need for resources so that early voting can be successfully implemented.
- High turnout and intense scrutiny of election processes can be expected in the November 2020 election, which will be the first time no-excuse absentee voting is in effect in Virginia. Localities need some assistance with the logistics of early voting – largely equipment and staffing costs – in order to meet the shared goal of a successful election.

Legislation Would Establish State-Level “Preclearance” for Local Election Practices

[HB 761 \(VanValkenburg\)](#) would establish a process by which the state would review certain election-related actions at the local level before those actions could take effect, similar to the federal preclearance previously required for jurisdictions covered by Section 4 of the Voting Rights Act.

Prior to the United States Supreme Court’s ruling in the 2013 *Shelby County v. Holder* case, jurisdictions covered by Section 4 of the Voting Rights Act were required to “pre-clear” proposed changes to voting procedures with the federal government as prescribed in Section 5 of the Voting Rights Act, in order to be sure that the proposed changes were not discriminatory. Virginia was included in the preclearance requirement, although some localities followed the procedure to “bail out” after demonstrating to a federal three-judge panel that they met certain criteria for voting rights compliance over the past ten years. After the coverage formula was struck down in the *Shelby County* case, the preclearance procedures no longer applied in Virginia.

HB 761 would apply to any locality that has a voting-age population containing two or more racial or ethnic groups, each constituting at least 20 percent of the voting-age population. The list of covered jurisdictions would be determined each year by the Attorney General, in consultation with the State Board of Elections and relevant executive branch agencies.

For covered localities, before enacting certain voting practices or procedures, the governing body would be required to seek preclearance through one of two options: (1) seeking a declaratory judgment in the circuit court that the practice would not limit access to voting on account of race or color or membership in a language minority group, or result in “retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise,” or (2) submitting the practice to the Office of the Attorney General, who would have 60 days to object (the bill would allow for an expedited approval upon good cause shown). The governing body would be able to appeal the Attorney General’s objection in the circuit court, and an aggrieved voter would be able to appeal the Attorney General’s lack of objection, if his or her right to vote was affected by the covered practice.

Practices that would require preclearance include changes to the method of election of members of a governing body or school board; changes to the boundaries of a jurisdiction or to election districts or wards within the jurisdiction; or changes that would reduce the number of, consolidate, or relocate polling places (except under certain emergency circumstances).

VACo has raised concerns during the subcommittee hearings on the bill about how the proposed preclearance process would be implemented, in particular the need to avoid unnecessary delays in implementing routine changes in practice, such as minor changes to polling locations. The bill was reported from House Appropriations on February 3.

Other Elections Bills of Interest

[SB 535 \(Peake\)](#) addresses the “misassigned voters” issue that arose after the 2017 elections, when it was discovered that some voters had been assigned to incorrect districts. The bill would establish a process to address situations where there is a discrepancy between the boundary line for a Congressional or state legislative district and the boundary traditionally used by neighboring localities. It provides that when the legislative district boundary virtually coincides with the boundary between localities, the legislative boundary would conform to the locality boundary, provided that boundary has been agreed upon and adopted in ordinances by the affected localities and reported to the Census Bureau. If the localities cannot agree on the boundary line, the boundary would remain as it was reported to the Census in the most recent redistricting process. The bill requires the State Board of Elections to review any boundary changes for possible fraudulent intent, and provides for a process by which a voter may request an additional review of his election district assignment. VACo and VML support this legislation, which has passed the Senate.

[HB 381 \(Cole, M.\)](#), in addition to providing for a process by which the Virginia Redistricting Commission would develop plans for General Assembly and Congressional districts, would require the establishment of local redistricting commissions in localities in which governing bodies are elected from wards. The bill specifies that the local commissions would consist of four members, with two commissioners appointed from each political party, who would be charged with developing two or more proposed plans for local redistricting for submission to the local governing body, with one plan designated as the commission’s preferred option (chosen by three of the four members). The governing body would be required to adopt a proposed plan within 30 days of the plans being made available to the public, and if it failed to do so, the

commission's preferred plan would be deemed to be approved. VACo opposed similar provisions in 2019.

Several bills have been introduced that seek to address the problem of split precincts, which can be confusing for voters and complicated to operate. VACo has historically supported authorization for the General Assembly to make technical adjustments to district lines in order to correct errors or make small adjustments in order to "reunite" split precincts, an approach embodied in [HJ 3 \(Cole\)](#), which would amend the Constitution to make clear that such action is permissible. [SB 740 \(Obenshain\)](#) represents the traditional position of the Senate, which would require localities to make changes to local precinct lines after the completion of General Assembly redistricting in order to ensure that no precincts are split; the governing body could apply to the State Board of Elections for a waiver to operate a split precinct if local lines could not be drawn so as to avoid operating a precinct with fewer than the statutory minimum number of voters (100 in a county and 500 in a city). HJ 3 has not been heard, while SB 740 has passed the Senate.

- [HB 220 \(Krizek\)](#) would require an absentee ballot to be sent with prepaid postage. This bill is on the House floor.
- [HB 1643 \(Ayala\)/HB 1678 \(Lindsey\)](#) would extend the close of polling hours on Election Day from 7 p.m. to 8 p.m.
- [HB 57 \(Fowler\)/SB 316 \(Kiggans\)](#) would delay the June primary date from the second Tuesday to the third Tuesday in June. These bills have passed their respective originating chambers.
- [HB 108 \(Lindsey\)/SB 601 \(Lucas\)](#) would designate Election Day as a state holiday and eliminate Lee-Jackson Day as a state holiday. SB 601 has passed the Senate; HB 108 is on the House floor.
- [HB 216 \(Helmer\)](#), as reported by House Privileges and Elections, would require that no method of nominating candidates could be used if such method has the effect of excluding participation by active duty military or others temporarily residing outside of the country, students attending institutions of higher education, or individuals with disabilities, with certain exceptions. The bill would take effect January 1, 2023. As a practical matter, this bill would appear to encourage the use of primaries as a method of nomination, but the patron suggested that the delayed effective date would allow the political parties to develop alternatives to other nomination methods. The bill has been referred to House Appropriations.
- [HB 1103 \(Hudson\)](#) would authorize the use of ranked-choice voting in local board of supervisors or city council races, effective July 1, 2021. The decision to use this voting method would be made by a majority vote of the affected governing body, which would bear any costs associated with technology changes required at the Department of Elections to process results. This bill was narrowly reported from House Privileges and Elections on January 31 and is on the House floor.

Health and Human Resources

Steering Committee

CSA Bills Likely Headed to JLARC

Several bills that would provide additional flexibility in the use of Children’s Services Act (CSA) funding to meet children’s needs within the public school setting have been referred to the Joint Legislative Audit and Review Commission (JLARC), with one bill likely to follow suit this week. JLARC has been directed to undertake both a broader study of special education and a specific review of the Children’s Services Act, and legislators have been reluctant to make changes to the program in advance of JLARC’s review.

[HB 49 \(McNamara\)](#) and [SB 128 \(Suetterlein\)](#) are similar bills that would direct the Department of Education to develop pilot programs in two to eight local school divisions to identify the resources needed to support students who are currently educated in private schools pursuant to an Individualized Education Program if those students were to be served in the public school environment instead, to include making recommendations for redirecting federal, state, and local funds, including CSA funds, to provide the appropriate services and supports. The pilot projects would last up to four years and reports would be required at the two- and four-year marks on the programs’ successes and challenges encountered. HB 49 has been continued to 2021 in House Appropriations; SB 128 is scheduled to be heard by Senate Education and Health on February 6.

[HB 762 \(Cole\)](#) and [SB 135 \(Stuart\)](#) apply to Planning District 16 and would allow CSA funds to support the services for children who transfer from a private special education day placement to a public school special education program, when that public program is able to provide comparable services. HB 762 was continued to 2021 in House Appropriations; similar action was taken in Senate Finance and Appropriations on SB 135. Senate Finance and Appropriations also continued until next year [SB 190 \(Peake\)](#), which would provide in general that services in the public school setting could be supported by CSA funds.

VACo sent a letter to JLARC last year encouraging that the specific issue of how school divisions can best be supported to serve children with high-level needs be an area of focus in JLARC’s studies and has had further conversations with JLARC staff during the session.

Comprehensive Harm Reduction Bills Advance

Legislation enacted in 2017 authorized the Commissioner of Health to establish local or regional comprehensive harm reduction programs during a declared public health emergency. These programs aim to reduce the spread of blood-borne diseases and to provide information to individuals struggling with addiction about recovery services, and allow for the provision of sterile hypodermic needles and syringes. Under the 2017 statutory authorization, the Virginia Department of Health is charged with establishing criteria under which these programs operate, which include the support of the local governing body and local law enforcement. The 2017

legislation included a sunset clause under which the authorization for the program would expire July 1, 2020. Two companion bills have been introduced that make no changes to the program, but remove the sunset clause: [HB 378 \(Rasoul\)](#), which has passed the House, and [SB 864 \(Pillion\)](#), which is heading to the Senate floor.

[HB 791 \(Plum\)](#), as introduced, would allow organizations that promote evidence-based methods of reducing health risks to establish comprehensive harm reduction programs, and would remove the requirement for support of the local governing body to be among the criteria in establishing these programs. VACo unsuccessfully proposed an amendment to provide that operation of such a program would be subject to the approval of the local governing body and that such a program would be required to comply with local zoning and building codes. Amendments were adopted in committee that appear to provide for approval of a comprehensive harm reduction program by the Commissioner or his or her designee, which would improve the bill. The patron has indicated a willingness to amend the bill further to provide for notice to the local governing body.

Epinephrine Mandate Removed; Bill Now Permissive

[HB 1147 \(Keam\)](#), as introduced, would require “every public place” to make epinephrine available for administration, and would authorize any employee of a public place who is authorized by a prescriber and trained in the administration of epinephrine to possess the drug and administer it to someone who is believed to be experiencing an anaphylactic reaction. The bill provides liability protections for the employee who administers or assists in the administration of the epinephrine. VACo expressed concerns about the breadth of the mandate to provide epinephrine, as the statutory definition of a “public place” encompasses any building owned or leased by any locality. Requiring epinephrine to be available in any building owned or leased by a county could result in significant costs to the locality to stock and periodically replenish the medication. The bill was amended in subcommittee, with the support of the patron, to authorize the provision of epinephrine rather than mandating it.

Bills Would Allow Naloxone to be Placed in Public Facilities

Several bills have been introduced as a result of a 2019 study by the Joint Commission on Health Care of barriers to the placement of naloxone (which counteracts opioid overdoses) in public facilities. As recommended for reporting from a subcommittee of Health, Welfare, and Institutions, [HB 908 \(Hayes\)](#), which incorporates several related measures, would allow an employee or other person acting on behalf of a public place to possess and administer naloxone, provided that person has completed a training program and administers the drug in accordance with specified protocols. The bill provides certain liability protections for a person administering the naloxone in good faith to someone who is believed to be experiencing an overdose. [SB 566 \(Edwards\)](#) includes similar liability provisions; [SB 836 \(Suetterlein\)](#) contains language authorizing employees of a public place who have completed a training program to possess and administer naloxone. HB 908 has reported from Health, Welfare, and Institutions; the Senate bills are scheduled to be heard in full Senate Education and Health this week.

Transportation Steering Committee

Big Transportation Funding Bills in Play

[HB 1414 \(Filler-Corn\)](#) / [SB 890 \(Saslaw\)](#) increase transportation funding by 2024 through a 12-cent increase in gasoline taxes by 2024 and implement a new fee on fuel efficient vehicles. These bills, which are supported by the Administration, seek to address declining growth in transportation revenues over time to meet increasing demands for new construction and maintenance of existing transportation infrastructure.

These omnibus bills will, if passed, generate over \$350 million annually for transportation, including:

- \$55 million for road maintenance (city streets, primary and secondary roads)
- \$80 million for construction (SMART SCALE)
- \$125 million for Transit (transit capital needs from expiration of CPR bonds in 2018)
- \$30 million for the Northern Virginia Transportation Authority.

HB 1414 includes measures to improve road safety that are identical to a separate Senate companion, [SB 907 \(Lucas\)](#). This legislation would:

- Increase local authority to reduce speed limits below 25 mph in residential and business districts
- Ban the use of cellphones while driving
- Mandate the use of seatbelts by all vehicle passengers
- Ban open alcohol containers in motor vehicles.

Both bills create a new Virginia Passenger Rail Authority that will be able to acquire rail rights of way and contract out the operations of rail service with the goal of expanding passenger rail access across the Commonwealth.

DIFFERENCES

- HB 1414 reduces the motor vehicle registration fee and holds local registration fees harmless; SB 890 does not address registration fees.
- HB 1414 also proposes reducing vehicle state inspections to once every two years; SB890 does not change the frequency of state inspections.

- SB890 increases the number of representatives on the Virginia Passenger Rail Authority Board from Hampton Roads and Southwestern Virginia.

Central Virginia Transportation Authority Bill

[HB1541 \(McQuinn\)](#) creates the Central Virginia Transportation Authority, composed of the counties and cities located in Planning District 15 (Goochland, Powhatan, Chesterfield/Colonial Heights, Henrico, Hanover, New Kent, Charles City, Richmond City). The authority will administer transportation funding generated through the imposition of an additional regional 0.7 percent sales and use tax and 2.1 percent wholesale gas tax. 35 percent of funds retained by the Authority are to be used for transportation-related purposes benefiting the member localities, 15 percent shall be distributed to the Greater Richmond Transit Company (GRTC) for transit and mobility services, and 50 percent will be returned proportionately to the each member locality to improve local mobility. This authority follows similar authorities created in Northern Virginia and Hampton Roads. VACo spoke in support of this bill at the request of member counties. House Appropriations Reported the bill 15-2.

VACo Seeks to Retain County Authority to Regulate or Prohibit Delivery Robots on Sidewalks and Streets

[SB 758 \(Marsden\)](#) makes several changes related to electric personal delivery devices (aka delivery robots), including changing the weight limit of such devices from 50 to 200 pounds and that can travel at speeds of up to 10 miles per hour. As introduced the bill eliminates the ability of localities to regulate or prohibit the use of delivery robots on sidewalks, crosswalks, or roadways. At the request of the patron VACo is working with proponents of the measure on changes to retain local authority to regulate where such devices would be permitted.

Abbreviated Schedule of Committee Meetings

02/06/20	7:00 a.m.	Capitol Commission Bible Study; 300-B Subcommittee Room, Pocahontas Building
	7:00 a.m.	Legislative Sportman's Caucus; 200-B Subcommittee Room, Pocahontas Building
	CANCELLED	House Transportation - Transportation Systems Subcommittee; House Room 3, The Capitol - CANCELLED
	7:30 a.m.	Hampton Roads Caucus; Senate Subcommittee Room 1, 5th Floor Pocahontas Building
	CANCELLED	House Counties, Cities and Towns - Land Use Subcommittee; 300-A Subcommittee Room, Pocahontas Building - CANCELLED

	CANCELLED	New American Caucus; 300-B Subcommittee Room, Pocahontas Building - CANCELLED
	8:00 a.m.	House Counties, Cities and Towns - Ad Hoc Subcommittee; 300-A Subcommittee Room, Pocahontas Building (sub-committee info)
	8:00 a.m.	Senate Education and Health; Senate Room A, Pocahontas Building (committee info)
	8:00 a.m.	House Health, Welfare and Institutions; House Committee Room Pocahontas Building (committee info)
	8:30 a.m.	Foster Care Caucus; 200-B Subcommittee Room, Pocahontas Building
	9:00 a.m.	House Transportation; House Room 3, The Capitol (committee info)
	CANCELLED	House Health, Welfare and Institutions - Social Services Subcommittee; House Committee Room, Pocahontas Building - CANCELLED
	10:00 a.m.	House Privileges and Elections - Redistricting Subcommittee; House Committee Room, Pocahontas Building (sub-committee info)
	11:00 a.m.	House Democratic Caucus; House Room 1, The Capitol
	11:00 a.m.	House Republican Caucus; House Room 2, The Capitol
	11:30 a.m.	Senate Democratic Caucus; Senate Room 1, The Capitol
	11:30 a.m.	Senate Republican Caucus; Senate Room 2, The Capitol
	15 min aft	Senate Transportation; Senate Room 3, The Capitol - 15 minutes after adjournment (committee info)
	3:00 p.m.	Senate Finance and Appropriations K-12 Education Subcommittee; Subcommittee Room #1, 5th Floor, Pocahontas Building (sub-committee info)
	1/2 hr aft	House General Laws - Professions/Occupations and Administrative Process Subcommittee; House Room 3, The Capitol - 1/2 hour after adjournment of House (sub-committee info)
	Adj Sub	House General Laws - Housing/Consumer Protection Subcommittee; House Room 3, The Capitol - Immediately upon adjournment of Professions/Occupations and Administrative Process Subcommittee (sub-committee info)
	1 hr aft	House General Laws; House Room 3, The Capitol - 1 hour after adjournment of Housing/Consumer Protection Subcommittee (committee info)
	1/2 hr aft	House Labor and Commerce; House Committee Room, Pocahontas Building - 1/2 hour after adjournment of House (committee info)
	Adj L & C	House Labor and Commerce - Subcommittee #2; House Committee Room, Pocahontas Building - Immediately upon adjournment of full committee (sub-committee info)

	CANCELLED	House Privileges and Elections - Campaign Finance Subcommittee; 300-A Subcommittee Room, Pocahontas Building - CANCELLED
	4:30 p.m.	Senate Finance and Appropriations; Committee Room B, Pocahontas Building (committee info)
	4:30 p.m.	House Public Safety - Public Safety Subcommittee; 400-B Subcommittee Room, Pocahontas Building (sub-committee info)
	CANCELLED	House Counties, Cities and Towns - Charters Subcommittee; 200-A Subcommittee Room, Pocahontas Building - CANCELLED
	CANCELLED	House Health, Welfare and Institutions - Health Professions Subcommittee; 400-C Subcommittee Room, Pocahontas Building - CANCELLED
	CANCELLED	Rural Caucus; 300-B Subcommittee Room, Pocahontas Building - CANCELLED
02/07/20	7:30 a.m.	House Finance - Subcommittee #3; House Room 1, The Capitol (sub-committee info)
	7:30 a.m.	Capitol Region Caucus; 300-B Subcommittee Room, Pocahontas Building
	8:00 a.m.	Senate Finance and Appropriations Capital Outlay Subcommittee; Subcommittee Room #1, 5th Floor, Pocahontas Building (sub-committee info)
	8:00 a.m.	House Public Safety; House Committee Room, Pocahontas Building (committee info)
	8:30 a.m.	Senate Rehabilitation and Social Services; Senate Room A, Pocahontas Building (committee info)
	9:00 a.m.	House Counties, Cities and Towns; Shared Committee Room, Pocahontas Building (committee info)
	9:30 a.m.	House Privileges and Elections; House Room 3, The Capitol (committee info)
	1/2 hr bef	Senate Democratic Caucus; Senate Room 1, The Capitol - 1/2 hour before session
	1/2 hr bef	Senate Republican Caucus; Senate Room 2, The Capitol - 1/2 hour before session
	11:00 a.m.	House Democratic Caucus; House Room 1, The Capitol
	11:00 a.m.	House Republican Caucus; House Room 2, The Capitol
	1/2 hr aft	House Appropriations; Shared Committee Room, Pocahontas Building - 1/2 hour after adjournment of House (committee info)
	1/2 hr aft	House Courts of Justice; House Room 3, The Capitol - 1/2 hour after adjournment of House (committee info)

VIRGINIA GENERAL ASSEMBLY
POCAHONTAS BUILDING DIRECTORY

GROUND FLOOR [MAIN STREET]

Main House and Senate Committee Rooms
HCO - Committee Operations
House Briefing Room
Capitol Police Desk

1ST FLOOR [BANK STREET]

Senate Committee Operations
Capitol Police Desk
DLAS Bill Room

2ND FLOOR

House Member Offices
HCO - Post Office
HCO - Copy & Folding Center
House Subcommittee Rooms 200 A & B

3RD FLOOR

House Member Offices
House Subcommittee Rooms 300 A & B

4TH FLOOR

House Member Offices
House Subcommittee Rooms 400 A, B & C

5TH FLOOR

Senate Member Offices
Senate Briefing Room
Senate Subcommittee Rooms 1, 2 & 3
Division of Legislative Automated Systems [DLAS]

6TH FLOOR

House & Senate Leadership
Speaker's Conference Room
Senate Leadership Conference Room
Senate Member Offices
Senate Technology
Senate Support Services
Senate Post Office

7TH FLOOR

HCO - Support Services

<p>DLAS – Division of Legislative Automated Systems DLS – Division of Legislative Services HCO – House Clerk's Office</p>
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8TH FLOOR

DIVISION OF LEGISLATIVE SERVICES [DLS]

Director's Office
Special Projects & Resolutions

DLS STAFF FOR:

- Commerce & Labor
- Courts of Justice
- Education
- Elections
- Health & Social Services
- Judicial Selection
- Militia & Police

9TH FLOOR

DIVISION OF LEGISLATIVE SERVICES

Conference Room
Computer Mapping & Redistricting
Editing Staff
Ethics Council

10TH FLOOR

DIVISION OF LEGISLATIVE SERVICES

Fiscal Office
Freedom of Information Advisory Council
Housing Commission
Joint Commission on Technology & Science

DLS STAFF FOR:

- Agriculture & Natural Resources
- Finance & Taxation
- General Laws
- Local Government
- Transportation

11TH FLOOR

DIVISION OF LEGISLATIVE SERVICES

Chesapeake Bay Commission
Code Commission
Commission on Administrative Rules
Commission on Youth
Legislative Reference Center

12TH FLOOR

HCO - Information Technology & Telecommunications
HCO - Human Resources & Finance

13TH FLOOR

House Appropriations Staff
Chair, House Appropriations
Vice-Chair, House Appropriations

14TH FLOOR

Senate Finance Committee