

Capitol Contact

Virginia General Assembly

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



Tuesday, March 3, 2020

Collective Bargaining Legislation Update

As we race towards Sine Die, two bills changing provisions of the code related to collective bargaining for public employers and employees appear headed towards conference committee and then final votes on the floor of the House and Senate possibly as late as Saturday. [HB 582 \(Guzman\)](#) and [SB 939 \(Saslaw\)](#) both allow collective bargaining for public employees under certain conditions with major differences between them, most importantly the preemption of local option for local governing bodies and the imposition of unfunded mandates. The final version of these bills is unknown at this time, but preserving the authority of local governments in this matter remains imperative.

As previously [reported](#), VACo opposes any effort to mandate collective bargaining for public employees, and has spoken in, and urged opposition to HB 582. VACo has taken no position on SB 939, but appreciates amendments made by the patron to maintain local authority and continue the prohibition on public employees striking. Both bills have journeyed far through the House and Senate with significant actions taken by each chamber.

HB 582 was passed by the House 54-45 on February 6 and sent to the Senate. The Senate Commerce and Labor Committee reported and referred the bill to the Senate Finance and Appropriations Committee with a substitute that conformed it to the language contained in SB 939 as engrossed by the Senate. This language is permissive and preserves the local option to engage in collective bargaining with local governing bodies. Most recently, the Senate Finance and Appropriations Committee reported the bill, 8-3, on March 2. The bill now awaits debate on the Senate floor. Passage of the bill as substituted by the Senate is likely, which means that it will be sent back to the House, who will likely reject the Senate substitute, returning HB 582 to the problematic version that VACo opposes.

SB 939 was passed by Senate, 21-19, on February 11 and sent to the House. The House Labor and Commerce Committee reported the bill with a substitute that conformed it to the language contained in HB 582 as engrossed by the House. As the proposed House budget contained amendments that the House contends cover the state costs of [implementing](#) a Public Employee Relations Board and [providing](#) legal support from the Office of the Attorney General, the bill was reported directly to the floor of the House and engrossed. The bill was then sent to the Senate who unanimously rejected the House's language 0-40 on March 2. The bill now awaits action by the Senate and then the House once HB 582 returns to the House with any Senate amendments.

As the House and Senate will have amended each of these bills and the chamber of origin will have disagreed with the amendments, a conference committee most likely consisting of three members of each legislative body will be formed to resolve the differences and conflicts between the bills. The last day to place the bills in conference is March 5. This means we can expect the House and Senate to name their conferees at that time. As we do not yet know who will be named to the conference committee, what the final bill language will be, and when a final vote will be taken, members are urged to contact their legislators, especially Senators to express their opposition to HB 582 and any legislative language that would mandate collective bargaining.

KEY CONTACTS

House of Delegates – Email all Delegates at once
Senate of Virginia – Email all Senators at once

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

Preclearance bill headed to Senate floor

[HB 761 \(VanValkenburg\)](#) seeks to establish a state-level preclearance process in lieu of the federal preclearance that was previously required under the Voting Rights Act. Under the bill in its current form, any County or City containing two or more racial or ethnic groups that each constitute at least 20 percent of its voting-age population would need to submit certain election-related practices for state approval. This approval would be granted via a declaratory judgment issued by the Circuit Court of the City of Richmond that the practice would not limit the exercise of voting rights by members of racial, ethnic, or language minority groups, or a certification by the Attorney General that he does not object to the practice. Covered practices include changes to the method of election of members of a governing body, changes to election districts, and changes to polling places, including relocation of polling places. The Attorney General would make an annual determination of which localities would be covered by the preclearance requirements.

The bill currently includes a delayed effective date for the entire bill of January 1, 2022, and a delay in its applicability to changes in election district boundaries until July 1, 2022. The delay alleviates potential problems the bill may otherwise have created for the preparations for early voting in fall 2020 (as localities may not have been able to secure preclearance for the establishment of satellite early voting locations in time for those locations to be in place for September 2020 early voting). However, VACo remains concerned about the bill, which will require even minor changes to polling place locations to be precleared and does not apply to the state, which plays a major role in the conduct of elections by prescribing voter qualifications and many voting-related practices either by statute or regulation.

After extensive discussion, the Senate Privileges and Elections Committee reported the bill by a 10-5 vote on February 25 and referred it to the Senate Finance and Appropriations Committee due to its expected cost to the state for staffing in the Attorney General's office. The Senate Finance and Appropriations Committee reported the bill on March 2 with an amendment making it contingent upon the inclusion of funding in the state budget. The House budget contains funding for the state costs, but the Senate budget does not.

VACo Contact: [Katie Boyle](#)

Bill to change local tax authority on large scale wind projects is amended to limit its application

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

The effect of this change on local revenues will depend on each County's specific real estate and M&T rates. To date, no projects greater than 25 MW have been built in Virginia, although one has been approved to proceed in Botetourt County.

The bill is supported by APEX Clean Energy, the developer of the Botetourt County project. While the County approved a tax rate on wind turbines of no more than \$0.20 more than the real estate rate, APEX sought the legislation to prevent future hikes in the rate allowable under existing law. This is because Botetourt County's M&T rate is significantly higher than its current real estate rate.

To address concerns that this proposed change could limit the flexibility of Counties that might consider large wind projects in the future to establish appropriate tax rates for this type of property, the bill was modified at VACo's

request so that it only applies to projects “... *for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before July 1, 2020.*”

The amended bill has passed both the House and Senate and is now before the Governor for consideration.

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

Bill limiting split precincts moving forward

Split precincts, in which one polling place serves voters in more than one state House or Senate or Congressional district, can be confusing for voters and complicated to operate, and the General Assembly has struggled for several years to address the issue. VACo has historically supported the ability of the General Assembly to make technical adjustments to state or Congressional district lines in order to correct errors or make other small changes to “reunite” split precincts as the simplest method to ameliorate split precincts. However, bills to authorize such technical adjustments have been vetoed in the past, in keeping with an interpretation of the Virginia Constitution that such changes would constitute impermissible mid-decade redistricting. Last year, a Constitutional amendment passed that would make clear that limited technical adjustments would be authorized, but this year it failed to emerge from subcommittee.

[SB 740 \(Obenshain and Barker\)](#) has been considered in similar form in the last several years and takes the position that localities should be responsible for making changes to local precinct lines after the completion of General Assembly redistricting in order to ensure that no precincts are split. Under the bill, the local governing body would need to apply for a waiver from the State Board of Elections to operate a split precinct if it was unable to draw precinct lines so as to avoid operating a precinct with fewer than the statutory minimum number of voters.

When the bill was heard in subcommittee in the House Privileges and Elections Committee, VACo raised concerns about the bill’s assumption that localities can wait until the completion of General Assembly redistricting to undertake local redistricting efforts. Counties with local elections in November 2021 will need to begin work on redrawing local district lines as soon as Census data is available (which is expected in February 2021) in order to be prepared for the November general election and potentially also August primaries (typically the legislature delays primaries that would otherwise be held in June of a redistricting year until August, although the General Assembly will need to pass legislation with an emergency clause in 2021 to do so). If General Assembly redistricting is not completed in a timely manner, localities would be challenged to fix any precinct splits created by state redistricting (or seek waivers to operate split precincts),

notify voters of any changes in precinct assignments, and make other preparations for an August primary and early voting for the November general election, which would start in mid-September. VACo is working with the patrons on amendments to make the bill more workable for localities, particularly those counties with November 2021 elections.

VACo Contact: [Katie Boyle](#)

Recycling and solar equipment tax exemption bill amended to preserve local flexibility

[SB 1039 \(Vogel\)](#) deals with the local option property tax exemption for certified recycling or solar equipment and, as introduced, would provide that if a taxpayer installed qualifying equipment and obtained the appropriate certification within one year of its installation, the tax exemption would apply retroactively to the date of installation and the locality would need to reimburse the taxpayer for taxes paid in the interim. Under current law, the tax exemption begins in the next succeeding tax year. VACo worked with the patron to amend the bill in the House Finance Committee to make clear that the application of the tax exemption retroactively to the date of installation would be a local option that could be adopted by ordinance within a local exemption program. The amended bill passed the House unanimously and the Senate has agreed to the amendment, so the bill is on its way to the Governor's desk.

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

Mandate to provide postage with absentee ballots heading to conference

[HB 220 \(Krizek\)](#) would require absentee ballots to be sent to voters with postage prepaid and is intended to respond to concerns about college students and other voters having limited access to purchase stamps. With the significant expansion in absentee voting by mail recently authorized by the General Assembly, this requirement could potentially impose significant costs on localities. As [reported](#) in a previous edition of Capitol Contact, the Senate Privileges and Elections Committee amended the bill to add a reenactment clause so that the bill would need to be revisited next year in order to take effect. However, when the bill returned to the House for approval of the Senate amendment, the patron asked Delegates to reject the change, sending the bill to a conference committee to resolve differences between the House and Senate versions. The patron has expressed a willingness to secure state resources to assist with postage costs, and VACo believes that the Senate approach of revisiting the issue next year would

provide more time for such assistance to be secured before requiring localities to absorb these additional costs. It would also allow some data to be collected on the numbers of voters who cast absentee ballots by mail under the new no-excuse system so that costs could be more accurately estimated.

VACo Contact: [Katie Boyle](#)

Bill to cap liens for unpaid water and sewer bills fails

[SB 826 \(McDougle\)](#), which proposes a dollar limit on the lien a locality may place on real estate for unpaid water and sewer bills of tenants or lessees, failed in the House General Laws Committee. Under current law such lien may be “up to three months of delinquent water and sewer charges.” The bill proposed to cap that amount at \$300 on residential properties.

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

Key Dates for 2020 General Assembly Session

The House and Senate adopted the procedural resolution governing the schedule for the 2020 General Assembly session on January 10, 2020. Key dates for the 2020 Session are as follows:

- **January 8:** General Assembly convened at noon. Bills that were “prefiled” were due to be submitted by 10 a.m. Bills affecting the Virginia Retirement System or creating or continuing a study were required to be filed before adjournment of their respective chambers of introduction.
- **January 10:** Deadline for submission of budget amendments by 5 p.m.
- **January 17:** Deadline for remaining bills to be filed at 3 p.m. (there are some exceptions, such as when legislation is granted unanimous consent to be introduced after the deadline).
- **February 11:** “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bill)
- **February 16:** House Appropriations and Senate Finance and Appropriations Committees report their respective budgets by midnight.

- **February 20:** Deadline for each chamber to complete work on its budget.
- **February 26:** Deadline for each chamber to complete work on the other chamber's budget and appoint budget conferees; also the deadline for each chamber to act on revenue bills from the other chamber and appoint conferees.
- **March 2:** Deadline for committee action on bills at midnight.
- **March 7:** Scheduled adjournment *sine die*.
- **April 22:** Reconvened session to consider gubernatorial amendments and vetoes.

VACo Contact: [Katie Boyle](#)