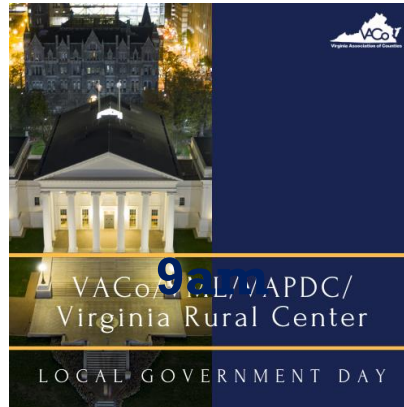


# VACo Local Government Day Bulletin

Thursday, January 28, 2021



## LOCAL GOVERNMENT DAY AGENDA

### WELCOME

**Jeff McKay** | VACo President and Fairfax County Board of Supervisors Chairman  
**Allen Kimball Callis** | VAPDC President and Town of South Hill Manager  
**Willie Greene** | VML President and City of Galax Mayor

### KEYNOTE SPEAKER

**Introduction** | **Willie Greene** | VML President and City of Galax Mayor

**The Honorable Ralph Northam** | 73<sup>rd</sup> Governor | Commonwealth of Virginia

### STATE BUDGET

**Jim Regimbal** | Principal | Fiscal Analytics

### LEGISLATORS ROUNDTABLE

**Moderator** | **Jeff McKay** | VACo President and Fairfax County Board of Supervisors Chairman

**Delegate Roslyn Tyler** | **Topics:** K-12 Education and Broadband

**Delegate Sally Hudson** | **Topic:** Affordable Housing

**Senator Scott Surovell** | **Topic:** Governmental Immunity

### VACCINATION BRIEFING

**Dr. Daniel Carey, MD, MHCM** | Secretary of Health and Human Resources

**Dr. Danny Avula, MD, MPH** | State COVID-19 Vaccine Coordinator

# Budget Amendments

VACo worked with legislators and partner organizations to introduce a package of budget amendments that support county priorities; VACo is also supporting several other amendments introduced at the request of partner organizations.

The House Appropriations Committee and Senate Finance and Appropriations Committee are scheduled to report their respective budgets on Sunday, February 7. Committee members are currently considering budget proposals in advance of this deadline.

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

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## **Eligibility for Virginia Telecommunication Initiative (VATI) Funding**

[Item 114 #10 \(Hurst\)](#), introduced at VACo's request, would broaden eligibility for VATI such that a local government or other public entity could qualify for funding without a private sector partner. An additional amendment, [Item 114 #3s \(Edwards\)](#), would provide similar flexibility for proposals addressing telehealth or telelearning. Several related amendments, [Item 114 #6h \(Tyler\)](#), [Item 114 #2s \(Edwards\)](#), and [Item 114 #9s \(Lewis\)](#), would direct the Department of Housing and Community Development to establish a one-year pilot program in FY 2022 in which public broadband authorities could apply directly for VATI funding, with a cap of 10 percent of total funding available under the pilot program.

### **KEY POINTS**

- These amendments clarify that grant funds can be used to supplement construction costs for broadband infrastructure owned and operated by local governments. Currently the funds are limited to supplementing the costs of the private sector.
- VACo supports granting greater flexibility to local governments seeking the most cost-effective solution to provide internet access to currently unserved areas.

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## **Recordation Tax Distribution to Localities**

[Item 273 #1h \(McQuinn\)](#), [Item 273 #1s \(Hanger\)](#), [Item 273 #2s \(Deeds\)](#), and [Item 273 #4s \(Vogel\)](#) would make localities whole that would otherwise be affected by the 2020 General Assembly's action to dedicate \$20 million in state recordation tax revenues to Hampton Roads Transit. The amendment would direct \$20 million in additional

recordation tax revenues to hold harmless those localities not served by Hampton Roads Transit that previously received distributions of these funds, which could be used for transportation or education needs.

## **KEY POINTS**

- Prior to the 2020 General Assembly session, a portion of recordation tax revenues had been distributed to localities since 1993 and localities had direct control over the transportation and education use of these funds.
- Recordation collections have turned in a strong performance in FY 2021. Through December 2020, year-to-date collections have increased 38.9 percent relative to the prior year, ahead of the forecast of 13.6 percent growth.
- Restoration of these funds will help localities 1) more effectively respond to the transportation and education needs of their communities, which as a result of COVID-19 are greater than ever, and 2) readdress long-term needs disrupted by the cession of these revenues and the holes created in their budgets as a result.

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## **Study of Local Fiscal Impacts of Mandatory Property Tax Exemptions**

[Item 114 #7h \(Mugler\)](#) and [Item 114 #4s \(Stuart\)](#) would direct the Commission on Local Government to review the effects of mandatory property tax exemptions on local governments' finances and recommend methods to mitigate these potential impacts. The Commission would report to the Governor, the Joint Subcommittee on Local Government Fiscal Stress, and the "money committee" Chairs by November 1, 2021.

## **KEY POINTS**

- In 2010, a Constitutional amendment providing for a property tax exemption for disabled veterans and their surviving spouses was approved by voters after being passed by the General Assembly. A subsequent Constitutional amendment provided a similar exemption for the surviving spouses of servicemembers who are killed in action. Another Constitutional amendment providing an exemption for one motor vehicle owned by a disabled veteran was passed in November 2020 and is in the process of being implemented.
- Local governments are proud of Virginia's long tradition of support for our military. However, participation in the tax exemption programs has far exceeded initial expectations and a better understanding of how these tax exemptions affect local finances is important.

- The state should examine ways to assist these deserving citizens in a way that is sustainable and does not limit localities' ability to provide the services that all Virginians rely on.

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## **Hold-Harmless for Local Health Department Funding Formula Change**

The Governor's budget would update the revenue capacity data in the Cooperative Health Budget funding formula, which would result in increased local match rates for some localities and decreased local matches for others. The Governor's budget includes hold-harmless funding in FY 2022 for localities that would be required to increase their local contributions. [Item 302 #2h \(Hudson\)](#) and [Item 302 #1s \(Deeds\)](#) would phase in the increased local match such that affected localities would contribute half of their required increase in FY 2023 and the full required increase in FY 2024, thus providing some additional time to adjust to the updated contribution requirements. The amendments also require reporting to appropriate legislative committee chairs on future updates to the funding formula (in addition to the introduced budget's requirement to report to the Governor).

### **KEY POINTS**

- The phase-in of the increased local match for affected localities would allow more time for local budgets to recover from the COVID-19 pandemic before full implementation of the updated match rates.
- VACo looks forward to continued conversations with the Administration and the legislature about ways to enhance state support for local health departments, which play a critical role in responding to public health emergencies.

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## **Hold-Harmless for Localities for Certain Children's Psychiatric Residential Costs**

The Governor's budget reflects a change announced by the Department of Medical Assistance Services last fall that costs previously covered by Title IV-E for children in psychiatric residential treatment facilities may no longer be covered by Title-IV-E (which is a state-federal cost-share), and will instead be covered by Medicaid (which requires a local match in these settings). [Item 292 #1h \(Sickles\)](#) would exempt localities from the local match for the costs that would have been covered by Title IV-E.

### **KEY POINTS**

- Without some intervention by the state, localities will begin to assume these additional costs, estimated at \$2.3 million in FY 2022, beginning July 1, 2021.

- Localities received notice of this change in November 2020, leaving a relatively short time to adjust local budgets for these new costs, considering the stresses on local government finances imposed by the COVID-19 pandemic.

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## **Jail Per Diems**

[Item 69 #3h \(Hope\)](#) would provide an increase for jail per diem payments to reflect the parallel increase in the Consumer Price Index since the current rates were set by the 2010 General Assembly.

### **KEY POINTS**

- The costs related to jail operations are subject to inflation just like any other service, yet per diems have not seen an increase in more than 10 years.
- Jails are expected to incur significant costs to comply with new standards for behavioral health and medical care that are in the process of being adopted by the Board of Local and Regional Jails at the direction of the 2019 Session of the General Assembly.
- A workgroup established pursuant to the 2019 legislation estimated that jails would need an additional \$42.6 million to comply with new behavioral health standards alone; a more detailed analysis of the costs by the Compensation Board and Department of Criminal Justice Services was delayed by COVID-19 and is expected in the spring.

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## **Reimbursement for General Registrar and Electoral Board Member Compensation**

[Item 87 #3h \(Tyler\)](#) and [Item 87 #2s \(Deeds\)](#) would provide \$2.5 million in FY 2022 to restore full reimbursement for compensation for general registrars and electoral board members, which was included in the budget as passed in March 2020, but unallotted in April and not able to be restored during the 2020 Special Session. Several similar amendments would restore full reimbursement for registrars' salaries and also provide a salary increase.

### **KEY POINTS**

- In fall 2019, the Department of Elections estimated that the state would reimburse 69 percent of registrar compensation and 81 percent of electoral board member compensation in FY 2020.
- The ever-growing complexity of election administration has required significant investment of local funds. In FY 2019, local governments reported spending

close to \$49 million on election administration, of which the state provided approximately \$6 million (in partial reimbursement for general registrar and electoral board member compensation).

- In recent years, the General Assembly has taken steps to enhance voting access. A robust elections system requires a strong state-local partnership.

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## **Stormwater Local Assistance Fund (SLAF) and Water Quality Improvement Fund (WQIF)**

[Item C-70 #2h \(Bulova\)](#) and [Item C-70 #1s \(Hanger\)](#) provide an additional \$39.8 million in bond authority for wastewater treatment plant upgrades driven by regulatory requirements from the Department of Environment Quality (DEQ) in order to meet the Chesapeake Bay Phase III Watershed Implementation Plan (WIP).

[Item C-70 #1h \(Bulova\)](#) and [Item C-70 #2s \(Hanger\)](#) provide an additional \$50.9 million in bond authority for the Stormwater Local Assistance Fund (SLAF) in order to meet Virginia's Phase III WIP.

### **KEY POINTS**

- These figures fill the gap between funding levels in the introduced budget and the results of DEQ's 2020 SLAF and WQIF needs assessments, respectively.
- SLAF and WQIF are critical to local governments and their water quality and water infrastructure projects, particularly in their efforts to meet the goals of the Chesapeake Bay Phase III Watershed Implementation Plan (WIP).

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## **Other Priority Amendments VACo Supports**

### **Assistance with Absentee Voting Enhancements**

[Item 86 #7h \(VanValkenburg\)](#) provides \$12 million General Funds (GF) in the second year to provide grants to assist with the costs of potential changes to Virginia's absentee voting laws, including installation and security of absentee or mail drop-boxes, additional mailing or pre-paid postage costs, and absentee ballot curing.

### **Virginia Food Access Investment Program**

[Item 97 #1h \(McQuinn\)](#) and [Item 97 #6s \(McClellan\)](#) provide an additional \$4.75 million GF in FY 2021 for the Virginia Food Access Investment Program, which offers grants and loans to address food access in historically marginalized communities.

## **State Support for Planning District Commissions**

[Item 114 #2h \(Bulova\)](#) and [Item 114 #6s \(Marsden\)](#) reinstate \$294,000 GF in FY 2022 in state support for planning district commissions that was unallotted in April 2020.

## **Law Enforcement Funding**

[Item 68 #4h \(LaRock\)](#) would provide an additional 258 sheriffs' deputies in order to comply with statutory provisions requiring staffing for these positions at a ratio of one deputy per 1500 population in counties in which the sheriff has primary law enforcement responsibility. [Item 408 #1h \(Tyler\)](#) would provide an additional \$1.7 million GF in FY 2021 and \$7.9 million GF in FY 2022 to fund aid to localities with police departments in alignment with the projected growth in GF revenues.

## **Aid to Local Public Libraries**

[Item 247 #1h \(Carr\)](#), [Item 247 #1s \(Locke\)](#) and [Item 247 #2s \(Norment\)](#) would restore \$1 million GF in FY 2022 in aid to local public libraries that was unallotted and not restored in the special session.

## **State Support for Community Services Boards (CSBs)**

[Item 322 #1h \(Hudson\)](#) would restore \$9.3 million GF in FY 2022 in support for CSBs that was reduced in the expectation that CSBs would replace this funding with Medicaid reimbursements for clients newly eligible for Medicaid. Restoration of these funds is needed because some CSB clients remain ineligible for Medicaid, and Medicaid reimbursement rates for many services do not fully cover CSB costs.

## **Implementation of "Marcus Alert" System**

[Item 322 #3s \(Boysko\)](#) provides an additional \$3 million GF in FY 2022 to support implementation of the Marcus Alert system that was established during the 2020 special session.

## **Tree Conservation Workgroup**

[Item 107 #1h \(Hope\)](#) requires that the Department of Forestry convene a stakeholder work group, including local government representatives, for the purpose of developing and providing recommendations to state and local governments related to policies which encourage the conservation of mature trees and tree cover on sites being developed, increase tree canopy cover in communities, and encourage the planting of trees. The stakeholder work group shall also examine Virginia's existing enabling statutes and recommend potential changes to those sections that would enhance the preservation, planting, and replacement of trees during the land development process and incentives for the preservation, planting, or replacement of trees during the land development process.



# Economic Development and Planning Steering Committee

## VACo Supports Bills to Expand Broadband Access in Conjunction with Electric Grid Modernization

In 2019, the General Assembly passed legislation establishing a 3-year pilot program allowing Dominion Energy and Appalachian Power to provide (or make available) capacity to “nongovernmental” (private) internet service providers to areas currently without broadband access. As each utility upgrades grid infrastructure, there is an opportunity to add broadband access. This is because the communication backbone of fiber optic cables connecting utility infrastructure can include additional capacity made available for “middle mile” internet traffic in areas currently lacking access.

Building on the success of the pilot, [SB 1413 \(Boysko\)](#) and [HB 2304 \(Tyler\)](#), would make the program permanent while also streamlining the process whereby the State Corporation Commission (SCC) approves such infrastructure. Both measures have been adopted in committee and are now up for consideration on the floors of each chamber.

[HB 1923 \(Ayala\)](#) and [SB 1334 \(Edwards\)](#) would allow public internet service providers – such as local broadband authorities – to participate in the program to bring internet to unserved areas. HB 1923 has cleared the House by unanimous vote. SB 1334 has passed in committee and is now on the Senate floor for a vote.

## KEY POINTS

- VACo supports the financing and construction of the necessary telecommunications infrastructure to deploy universal affordable access to the internet for all areas, particularly in underserved and rural areas.
- These bills provide additional and robust assistance to counties that finance, build and operate open access networks for deployment to residents and businesses.

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## Bill Requiring Localities to Consider Environmental Justice in Comprehensive Plans Clears Early Hurdle

[HB 2017 \(Simonds\)](#) requires localities to include an environmental justice strategy in reviews and updates to comprehensive land use plans. As amended in subcommittee, the bill states that *“Beginning July 1, 2021, each locality shall, during each review of its comprehensive plan, consider:*



- Identifying each environmental justice community and fenceline community within the locality.
- Identifying objectives and policies to reduce the unique or compounded health risks in each environmental justice community or fenceline community by means that include the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, broadband Internet access, safe and sanitary dwellings, and physical activity.
- Identifying objectives and policies to promote public involvement by residents of each environmental justice community or fenceline community in the public decision-making process.
- Identifying objectives and policies that prioritize improvements and programs that address the needs of environmental justice communities and fenceline communities.

While the amended bill stops short of a clear mandate to incorporate these components into comprehensive plans, VACo does have concerns that the components to consider, should a locality choose to do so, would be potentially costly and difficult to implement. It is important to note that other requirements of the bill not affecting local governance would result in a cost to the state. Should the bill pass in full committee it will then be referred to the House Appropriations Committee where budget analysts must consider how to pay for it.

VACo will continue to monitor this legislation and seek to ensure that the measure does not become a mandate. Additionally, VACo will seek to preserve local autonomy to determine how environmental justice is incorporated into comprehensive plans, should they choose to do so.

# 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 Virginia Board of Education, where these recommendations coincide with prevailing local practice.

The [Governor's Proposed Revisions to the 2020-2022 Budget \(HB 1800\)](#) includes several proposals that:

- Protect school divisions from revenue losses associated with enrollment fluctuations during the pandemic by providing \$299.4 million General Funds (GF) in FY 2021 and \$214.2 million GF in FY 2022 in “no loss” funding. VACo strongly supports this action.
- Reduce unfunded liabilities in the VRS teacher retirement plan by directing a deposit of an estimated \$61.3 million GF in FY 2021 to expedite repayment of contributions that were deferred during the 2010-2012 biennium (an estimated \$38.7 million is directed to be deposited to the retiree health insurance credit plan for state employees to reduce unfunded liabilities in that plan as well). VACo has historically supported efforts to reduce the unfunded liability in the teacher retirement plan.
- Contingent on FY 2021 revenues meeting projections, provides \$80.1 million GF in FY 2022 for the state share of a 2 percent bonus for SOQ-recognized instructional and support positions, effective September 1, 2021. The Governor has indicated that his priority for additional revenues would be the conversion of the bonus payment proposed in his budget for teachers to a salary increase.
- Require that local school boards employ one school counselor per 325 students in grades K-12, beginning with the 2021-2022 school year, and provides \$26.6 million GF in FY 2022 for the state share of these costs.
- Direct the Virginia Department of Education and the Department of the Treasury to develop recommendations to encourage use of the Literary Fund for funding school construction projects.
- Provide \$2.7 million GF in FY 2022 to expand eligibility for the Cost of Competing Adjustment to Accomack County and Northampton County.
- Additional details on K-12 funding are available in the Superintendent of Public Instruction's December 16, 2020, [Memorandum](#).

## **Early Childhood**

- Increases the Virginia Preschool Initiative (VPI) per-pupil amount from \$6,326 to \$7,655 by providing \$11.1 million GF in FY 2022.
- Provides \$5 million GF in FY 2022 for incentive payments to retain early childhood educators.
- Includes language establishing a target of 10 percent of all children participating in VPI being children with disabilities who have Individualized Education Plans (IEPs), who would be served in inclusive classrooms alongside children without IEPs.
- Authorizes the use of unspent VPI funds to supplement certain other early childhood initiatives.
- Expands eligibility for grants that provide incentives to provisionally-licensed teachers who are working towards licensure to all publicly-funded preschool programs operated by local school divisions (currently, the program applies to VPI teachers).
- Provides \$164,174 GF in FY 2022 to support a Deputy Superintendent of Early Childhood position in the Department of Education.

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## **Board of Education Standards of Quality Revision Inspired Legislation**

The Virginia Board of Education re-prescribed their biannual [revisions](#) to the state's Standards of Quality (SOQ) in December 2020. Many of the Board's recommendations remain unfunded in the Governor's proposed revisions to the 2020-2022 budget and would require significant state and local funding. These bills seek to codify the Board's prescriptions:

- [HB 1929 \(Aird\)](#) / [SB 1257 \(McClellan\)](#) codify 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 requiring 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. HB 1929 reported from House Education Committee, 21-1, and was referred to the House Appropriations Committee. SB 1257 has yet to be heard in the Senate Education and Health Committee's Public Education Subcommittee.

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## **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. VACo supports additional state resources and additional funding options for localities for capital and school construction costs, including expanding dedicated local sales and use tax authority first given to select counties by the General Assembly in 2019. Several pieces of legislation seek to address this issue.

- [SB 1106 \(Stanley\)](#) 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. The Senate Education and Health Committee reported the bill, 13-0, and referred it to the Senate Finance and Appropriations Committee.
- [SB 1109 \(Stanley\)](#) provides for a statewide referendum on the question of whether the General Assembly shall issue state general obligation bonds in the amount of \$3 billion for the purpose of K-12 school building construction, repair, or other capital projects related to the modernization of school facilities. The results would be advisory only and are intended only to demonstrate the preference of the citizens of the Commonwealth on the issuance of such bonds. The bill provides that the referendum be held at the November 2021 general election. The bill was referred to the Senate Privileges and Elections Committee.
- [SB 1170 \(Norment\)](#) adds Isle of Wight County to the list of localities that, under current law, are authorized to impose an additional local sales and use tax at a rate not to exceed 1 percent, with the revenue used only for capital projects for the construction or renovation of schools. The Senate Finance and

Appropriations Committee reported the bill, 14-1. VACo supports this legislation and additional efforts to expand this authority statewide.

- [HB 2093 \(O'Quinn\)](#) establishes the School Construction Fund as a special nonreverting fund in the state treasury and requires the Department of Education to establish the School Construction Program for the purpose of providing grants from the Fund, subject to certain conditions, to school boards that leverage federal, state, and local programs and resources to finance the design and construction of new school buildings and facilities or the modernization and maintenance of existing school buildings and facilities. The bill has been referred to the House Education Committee's SOL and SOQ Subcommittee.
- [HB 1823 \(Askew\)](#) requires each building that was built before 2015 and that houses any public school classroom for students, licensed child day program, or other program that serves preschool-age children to be equipped with at least one carbon monoxide detector. The bill passed the House 98-1, and was referred to the Senate Education and Health Committee.

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### **Early Childhood Education / Child Care**

VACo supports additional federal and state funding for programs such as the Child Care and Development Block Grant (CCDBG) to support increased demand for childcare services in communities with school divisions that have opted to provide virtual or hybrid instruction plans to PreK-12 students for the 2020-2021 school year as a result of COVID-19 mitigation efforts. Access to safe and affordable childcare is an essential component to allowing local businesses to resume operations and county economies to recover. VACo supports local flexibility to administer or expand support services for childcare.

- [HB 2105 \(Bulova\)](#) delays until the 2022-2023 school year the requirement for all publicly funded early childhood education providers to participate in a quality rating and improvement system to be established by the Board of Education by July 1, 2021. The bill also delays from the fall of 2023 to the fall of 2024 the publication of initial quality ratings for such providers. The bill reinstates the School Readiness Committee and alters the composition and scope of the work of the School Readiness Committee. The bill was reported unanimously by the House Education Committee, 22-0.
- [HB 2206 \(Filler-Corn\)](#) creates the COVID-19 Child Care Assistance Program (the Program) to provide financial assistance for child care to families in need during the public health emergency caused by COVID-19. The bill directs the Department of Education (the Department) to administer the Program and to create a process through which applicants may apply online to participate in the Program. The bill provides that after a Program participant has selected an eligible child care provider, the Department shall issue a voucher, for full-time or part-time care, directly to the provider and provide notice of the amount of the

voucher to the Program participant. The bill provides that an applicant shall be eligible to participate in the Program if the applicant's household income is at or below 100 percent of the state median income or regional median income and the applicant's child for whom a voucher will be issued is 13 years of age or younger. The bill contains an emergency clause and will sunset on the last day of the sixth month after its passage. The bill was referred to the House Health, Welfare and Institutions Committee.

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## **School Board Employee Bills**

[HB 1736 \(Adams, D.M.\)](#) was amended to state that no individual who provides nursing services in a public elementary or secondary school shall use the title of school nurse unless that individual is a registered nurse who possess an active license to practice in Virginia. As originally written, the bill excluded school nurse positions from requirements for student support positions and instead requires each local school board to employ at least one full-time equivalent school nurse position in each elementary school, middle school, and high school in the local school division. The bill passed the House, 68-31-1, and was referred to the Senate Education and Health Committee.

[HB 1776 \(Ward\)](#) requires the Board of Education to grant a two-year extension of the renewable license of any public school teacher whose license expires in 2021 in order to provide the teacher with sufficient additional time to complete the requirements for relicensure. The bill was reported unanimously by the House Education Committee, 22-0, and referred to the House Appropriations Committee's Elementary and Secondary Education Subcommittee.

[HB 1904 \(Jenkins\)](#) / [SB 1196 \(Locke\)](#) require teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years. HB 1904 was passed by the House, 59-41, and referred to the Senate Education and Health Committee. SB 1196 was reported from the Senate Education and Health Committee, 9-4-1, and referred to the Senate Finance and Appropriations Committee.

[HB 1915 \(Mugler\)](#) requires that public school teachers be compensated at a rate that is at or above the national average. Under current law, compensation at such rate is aspirational. The bill requires state funding to be provided pursuant to the general appropriation act in a sum sufficient to fund a 4.5 percent annual increase for public school teacher salaries, effective from the 2022-23 school year through the 2026-27 school year. The bill has a delayed effective date of July 1, 2022. VDOE estimates the additional state cost will average approximately \$151.1 million per year to provide the



state share of a 4.5 percent compensation supplement for funded Standards of Quality (SOQ) teachers only. In recent history, Virginia has provided compensation supplements for all funded SOQ instructional and support positions, not only teachers. If the compensation supplement proposed in this bill is extended to all funded SOQ instructional and support positions, the estimated additional state cost increases to \$208.4 million per year. Local school divisions will be required to provide local matching funds for these compensation supplements based on each school division's local composite index. Additionally, local school divisions will be required to support the entire cost of these compensation supplements for positions that the division employs beyond those required by the SOQs and that are paid from local funds. HB 1915 was reported from the House Education Committee, 19-3, and referred to the House Appropriations Committee.

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### **VACo Supports Workforce Development Bills**

[HB 2204 \(Filler-Corn\)](#) / [SB 1405 \(Saslaw\)](#) establish the Get Skilled, Get a Job, Give Back (G3) Fund and requires the Virginia Community College System to establish the G3 Program for the purpose of providing financial assistance from the Fund to certain low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a certain high-demand field. The bill contains provisions for student eligibility, financial assistance award amounts, and data reporting. HB 2204 was reported from the House Education Committee, 21-1. SB 1405 was reported unanimously from the Senate Education and Health Committee, 14-0, and referred to the Senate Finance and Appropriations Committee.

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### **Additional Legislation**

[HB 1998 \(Murphy\)](#) reduces from three to two the minimum number of mandatory annual lock-down drills in each public elementary and secondary school in the Commonwealth. The bill was reported unanimously from the House Education Committee, 22-0.

[HB 2019 \(McQuinn\)](#) requires each local school board to adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication. The bill was reported from the House Education Committee, 16-6.

[HB 2247 \(Aird\)](#) removes several conditions on the Board of Education's constitutional duty to determine school division boundaries such as the freeze on the creation of new school division boundaries and the required consent of local school boards and local



governing bodies to divide or consolidate existing school divisions, and requires the Board, in fulfilling such duty, to consider equity in educational programs within and between school divisions. The bill has been assigned to the House Education Committee's SOL and SOQ Subcommittee.

[HB 2305 \(Tyler\)](#) directs VBOE to provide guidance on the governance of Governor's Schools focused on the importance of increasing access to Governor's Schools for historically underserved students and include best practices on: conducting information sessions about the school and the availability of gifted, advanced, and specialty education program opportunities for feeder public middle schools; strengthening the student pipeline in feeder public middle schools, prioritizing the most underserved and underrepresented students and public middle schools; conducting programs related to and evaluations of diversity, equity, and inclusion. The bill was reported from the House Education Committee, 14-7.

[HB 1790 \(McNamara\)](#) / [SB 1132 \(Suetterlein\)](#) provides that when severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides synchronous or asynchronous instruction, or some combination thereof, to all students in the school in lieu of in-person instruction without a reduction in the amount paid by the Commonwealth from the Basic School Aid Fund, with certain other conditions.

[HB 2299 \(Carr\)](#) requires the Department of Education to provide training and guidance documents to local school divisions on the development of Individualized Education Programs (IEPs) for children with disabilities among other provisions. This was a recommendation of the JLARC report on Special Education. The bill was reported unanimously from the House Education Committee, 22-0, and referred to the House Appropriations Committee.

# Energy Steering Committee

## Complex Changes to Laws Regarding the Siting and Taxing of Solar and Energy Storage Projects Get Early Green Light

The General Assembly passed legislation in 2020 providing counties new tools and taxing options in addressing the growing demand to site utility-scale solar projects. In 2021, the legislature is considering additional changes to incorporate large-scale battery storage within this new landscape, while at the same time expanding local authority to address impacts related to land use and local revenue generation. The result is a complex and opaque mix of interrelated bills, many all of which have already cleared early hurdles on their way towards final approval. This narrative summary attempts to unravel how each piece fits within the larger whole and their potential impact to counties where such facilities seek to be located.

[New law](#) effective July 1, 2020, requires any applicant seeking to locate a utility-solar energy or storage facility greater than 5 Megawatts (MW) in generating or storage capacity on any census tract meeting the eligibility requirements for a federal opportunity zone to execute a host siting agreement with the local jurisdiction prior to issuance of a state permit. The execution of such agreements can include “... i) *mitigation of any impacts of such solar facility; (ii) financial compensation to the host locality to address capital needs set out in the (a) capital improvement plan adopted by the host locality, (b) current fiscal budget of the host locality, or (c) fiscal fund balance policy adopted by the host locality; or (iii) assistance by the applicant in the deployment of broadband...*” [HB 2201 \(Jones\)](#) and [SB 1207 \(Barker\)](#) expand this new law to apply to any project greater than 5 MW. This removes the geographic limitation requiring a host site agreement to only those census tracts meeting the opportunity zone criteria. These bills have passed in committee and are now up for consideration on the floor of each chamber.

However, it is important to note that the legislation includes an enactment clause that states “... *the provisions of this act shall not become effective with respect to energy storage projects unless the General Assembly approves legislation that authorizes localities to adopt an ordinance for taxation of energy storage projects such as solar projects with a local option for machinery and tools tax or solar revenue share.*” What does this mean? This is where [HB 2006 \(Heretick\)](#) comes into play. Without its passage, HB 2201 and SB 1207, even should they become law, would carry no effect. HB 2006 expands the option for a locality to replace the machinery and tool (M&T) tax on solar generating energy generation equipment with an energy tax of up to \$1,400 per MW of capacity to now include “energy storage systems” (typically large-scale chemical battery installations) equipment per MW of storage capacity. It is important to note that these energy storage systems can (and many will likely) be separate from solar panel installations. Counties should also take note the bill also applies the same mandatory exemption from local M&T tax (80% exemption for the first 5 years of operation; 70% exemption for years 6-10; and 60% exemption for years 11 and beyond). The potential revenue reduction from this mandate can conceivably be offset by payments to counties

through the expansion of the host siting agreement authority for any project as provided in HB 2201 and SB 1207, should that legislation pass. HB 2006 passed in committee and is now headed to the House floor to be voted on.

The final piece of legislation that has also been approved in committee and headed to the House floor is [HB 2269 \(Heretick\)](#). This proposal amends the local option for an energy tax of up to \$1,400 per MW by allowing localities to increase this amount by up to 10 percent every 5 years starting July 1, 2026. For example, in 2026 the \$1,400 could be adjusted up to \$1,540 per MW and similarly in subsequent 5-year intervals as follows:

Year	Tax per MW
2026	\$1,540
2031	\$1,694
2036	\$1,863
2041	\$2,050
2046	\$2,255
2051	\$2,480
2056	\$2,728
2061	\$3,001

The purpose of the escalator is to address the diminishing value of the dollar due to inflation thereby providing an added incentive to adopting the energy tax versus M&T.

The sum of all these bills should they become law indicate that the legislature seeks to grant counties greater authority in the siting of these facilities, particularly through expansion of the host-siting agreement to all projects greater than 5 MW in generating and storage capacity, while at the same time providing enhanced revenue options for local consideration.

# Environment and Agriculture Steering Committee

## **WIP III Wastewater Bills Earn Widespread Support**

Two important bills have been introduced seeking to save localities money and provide greater certainty to wastewater treatment plants while still achieving the goals and obligations of the Phase III Watershed Implementation Plan (WIP III).

[HB 2129 \(Lopez\)](#) and [SB 1354 \(Hanger\)](#) establish a framework and timeline for wastewater treatment plants to undertake improvement projects in order to achieve specific goals in nitrogen and phosphorous reductions. These goals, and the specific timelines introduced in this legislation, will ensure the wastewater sector – and the Commonwealth as a whole – will meet their Chesapeake Bay nutrient reduction targets by the WIP’s 2025 deadline.

The chief objective of HB 2129 and SB 1354 is to provide greater certainty and clarity to local governments and wastewater facilities while also working to roll out upgrades and improvements in the most cost-effective manner possible. The total estimated cost of the necessary projects is approximately \$800 million over a five-year period via the Water Quality Improvement Fund (WQIF), but the framework established in these bills will save approximately \$173 million compared to what the state previously proposed.

HB 2129 was favorably received in the House Agriculture, Chesapeake and Natural Resources Committee, reporting out and being rereferred to the House Appropriations Committee. SB 1354 will be heard in the next meeting of the Senate Agriculture, Conservation and Natural Resources Committee.

VACo supports HB 2129 and SB 1354.

## **KEY POINTS**

- This is the most significant Chesapeake Bay clean-up bill for the wastewater sector in over a decade.
- It provides certainty in terms of timelines, what reductions are needed, and what upgrades and investments are required while also providing greater clarity to the General Assembly and localities for future Water Quality Investment Fund (WQIF) needs.
- It ensures that the Commonwealth will meet its WIP III obligations but does so in a manner that is cost-effective and efficient.
- HB 2129 and SB 1354 have a broad array of support, including VACo, VML, the Virginia Association of Municipal Wastewater Agencies (VAMWA), the

Chesapeake Bay Foundation (CBF), the James River Association (JRA), and more.

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## **VACo Supports Tree Replacement and Conservation Initiatives**

VACo supports important new tree replacement and conservation legislation as initially introduced by Delegate Nancy Guy and Senator Dave Marsden.

[HB 2042 \(Guy\)](#) and [SB 1393 \(Marsden\)](#) provide effective new tools for localities wishing to do more to conserve or replace trees during development processes. More specifically, this legislation takes a two-pronged approach to this issue.

First, the legislation alters [§ 15.2-961](#) of the Code of Virginia, pertaining to tree replacement ordinances. As proposed, HB 2042 would allow all local tree replacement or planting ordinances to exceed the current requirements in the following circumstances:

1. To generate pollution reduction credits through installation of an approved Urban Tree Canopy Expansion best management practice (BMP) or other approved BMP for compliance with the locality's Municipal Separate Storm Sewer System (MS4) Permit;
2. In any development project located in a Chesapeake Bay Preservation Area;
3. In any development project located in an area that prior to the passage of the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., was redlined or graded "D" by the federal Home Owners' Loan Corporation; and
4. To ensure conformity with the comprehensive plan adopted by the locality.

Second, HB 2042 and SB 1393 propose changes to [§ 15.2-961.1](#) of the Code of Virginia. Currently, only localities within Planning District 8 that meet specific population density criteria may adopt an ordinance providing for the conservation of trees during the land development process (pursuant to the provisions of this section). HB 2042 removes these geographic and population requirements, opening this section up to all localities across the Commonwealth.

HB 2042 was reported out of the House Counties, Cities and Towns Committee with an amendment that delays the enactment of this bill until July 2022. It will now be heard on the House floor. SB 1393 was reported out of the Senate Local Government Committee with two large amendments: first, language was added requiring a workgroup to convene to study this topic; and second, a reenactment clause was added, stipulating the provisions of the bill will only go into effect if it is reenacted by the General Assembly in 2022.

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## **Compromise Wetland and Stream Mitigation Bank Credits Bill Passes House, Heads to Senate**

A compromise bill dealing with wetland and stream mitigation bank credits has passed the full House of Delegates and will now be taken up in the Senate. [HB 1983 \(Bulova\)](#) is the result of a series of virtual workgroup meetings that featured developers, environmental organizations, and local governments.

The bill proposes that when a water protection permit applicant is required to purchase wetland or stream mitigation bank credits, but no credits are available either (1) in any mitigation provider's primary service area or (2) at a cost of less than 200% of the price of credits available from a fund dedicated to achieving no net loss of wetland acreage and functions, the applicant may purchase or use credits from a mitigation provider's secondary service area. The bill provides certain requirements that the permit applicant must comply with in order to purchase or use such credits from a secondary service area, including minimum tree canopy requirements. The bill is intended to strike a balance between water quality and conservation interests and land development interests.

The House of Delegates passed HB 1983 on January 25 by a vote of 84-15-1. HB 1983 will now be sent to the Senate, where it has been referred to the Senate Agriculture, Conservation and Natural Resources Committee.

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## **Slight Tweaks to Stormwater Local Assistance Fund (SLAF) Introduced in the Senate**

[SB 1404 \(Lewis\)](#) proposes a slight expansion of project eligibility for Stormwater Local Assistance Fund (SLAF) projects. Specifically, the bill authorizes SLAF awarded for projects related to Chesapeake Bay total maximum daily load (TMDL) requirements to consider total phosphorus reductions or total nitrogen reductions. Additionally, SB 1404 authorizes grants awarded for eligible projects in localities with high or above average fiscal stress (as reported by the Commission on Local Government) to account for more than 50 percent of the costs of a project.

SB 1404 has been referred to the Senate Committee on Agriculture, Conservation and Natural Resources, where it awaits a hearing.

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## **Expansion of Uses for a Local Stormwater Fund Passes Senate, Heads to House for Consideration**

A bill expanding the eligible uses for a local stormwater management fund has found favor in the Senate, passing the full chamber unanimously. [SB 1309 \(Ebbin\)](#) authorizes grants from a local Stormwater Management Fund to be used for measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality, including floodproofing, flood protection products, and grading. Current law only allows

local stormwater management program funds to be used for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.

SB 1309 reported from the Senate Local Government Committee by a vote of 14-0-1 and passed the full Senate on January 21 by a vote of 39-0. The bill awaits committee referral in the House of Delegates.

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### **Legislation Establishing a Flood Resiliency Clearinghouse Program Poised to Pass the House of Delegates**

[HB 2187 \(Hodges\)](#) directs the Commonwealth Center for Recurrent Flooding Resiliency (CCRFR) to develop and establish a Flood Resiliency Clearinghouse Program. The CCRFR is a joint partnership between Virginia Institute of Marine Science, the Coastal Policy Center at the College of William and Mary, and Old Dominion University.

This legislation specifically directs the CCRFR to work with the Department of Conservation and Recreation (DCR) to evaluate solutions that (1) manage both water quality and flooding and (2) emphasize nature-based solutions, including currently approved and not-yet-approved stormwater best management practices. The CCRFR shall, by November 1, 2021, report the results of its findings to the Chairman of the House Agriculture, Chesapeake and Natural Resources Committee and the Chairman of the Senate Agriculture, Conservation and Natural Resources Committee.

HB 2187 reported out of the House Agriculture, Chesapeake and Natural Resources Committee, 22-0, and reported out of the House Appropriations Committee, 22-0. The House will vote upon the bill by the end of the week.

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### **Problematic Landfill Bills to be Heard in the Senate**

Three problematic land use bills pertaining to landfills have been referred to the Senate Agriculture, Conservation and Natural Resources Committee and will be heard early next week.

[SB 1186 \(Hashmi\)](#) preempts local authority, prohibiting the construction of any new municipal solid waste landfill within three miles of any designated historic district, building, structure, object, or site. The location of such public facilities is outlined in local comprehensive plans that are developed by local planning commissions with input from citizens. This bill's arbitrary three-mile prohibition would severely limit their placement. VACo opposes SB 1186.

[SB 1200 \(Hashmi\)](#) requires any application to store, provide treatment for, or dispose of hazardous waste or an application for a new solid waste management facility permit, except for a noncaptive industrial landfill, to include certification from the governing body for each locality within a five-mile radius of the facility, other than the locality in



which the facility is or will be located, granting approval of the facility or activity. SB 1200 would effectively pit localities against one another, effectively granting a neighboring locality control over another locality's land use decisions. VACo opposes SB 1200 and has historically opposed similar legislation that creates such adversarial situations.

[SB 1319 \(Hashmi\)](#) prohibits the Department of Environmental Quality (DEQ) and the Virginia Waste Management Board from issuing any permit for the construction, modification, or expansion of a new or existing municipal solid waste landfill that will accept 3,500 tons or more of municipal solid waste per day until the General Assembly enacts legislation incorporating the findings and recommendations of the Waste Diversion and Recycling Task Force. SB 1319 also requests DEQ to continue to expand the scope of the Task Force and to continue its work through 2022. VACo does not oppose the expansion of the scope or timeline for the Task Force, but VACo does have concerns about the results of the proposed permit freeze.

SB 1186, SB 1200, and SB 1319 will be heard in the next meeting of the Senate Agriculture, Conservation and Natural Resources Committee.

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## **Troubling Environmental Permit Fee Bill Favorably Amended in Committee**

Concerning and potentially very expensive legislation dealing with environmental permit fees has been favorably amended in Committee.

As introduced, [SB 1210 \(Petersen\)](#) directed the Virginia Waste Management Board to adopt regulations to collect from any person operating certain facilities permitted for the disposal, storage, or treatment of nonhazardous solid waste such annual fees as are necessary to provide funding for the total direct costs of the nonhazardous solid waste management program when aggregated and combined with other existing fees. The bill also directed the State Water Control Board to adopt regulations specifying permit maintenance fees that each permitted facility shall pay to the Board for certain water quality or withdrawal permits. SB 1210 required the fee amounts to be set at an amount that is necessary to collect no less than 40 percent and no greater than 50 percent of the direct costs required for the administration, compliance, and enforcement of such permits.

VACo opposed this legislation as introduced, due to a number of concerns about the fiscal impact of this legislation as well the association's long held position opposing the imposition of a state fee, tax, or surcharge on water, sewer, solid waste, or any other service provided by a local government or authority. Notably, there were concerns about the increased costs this bill will generate for local governments, either as the owner of these facilities or as partners in a host agreement with private operators. In case of the latter, there was grave worry that new financial burdens will threaten host agreements and risk losing revenue that is critical to budgets.

Ultimately, Senator Chap Petersen agreed to amend his legislation, opting to simply form a workgroup comprised of local government representatives, industry representatives, environmental representatives, and Administration representatives to further study this issue and report findings and recommendations to the legislature. This workgroup will meet after the conclusion of the General Assembly session.

SB 1210 reported favorably from the Senate Agriculture, Conservation and Natural Resources Committee and has been rereferred to the Senate Finance and Appropriations Committee.

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## **Virginia Agriculture Food Assistance Program and Fund**

Legislation that seeks to improve food distribution infrastructure while assisting Virginia farmers and local and regional food banks has steadily moved through both chambers of the General Assembly so far this session.

[HB 2203 \(Madame Speaker\)](#) and [SB 1188 \(Hashmi\)](#) establish the Virginia Agriculture Food Assistance Program and Fund (VFAP). The VFAP will provide funding for Virginia farmers and food producers to donate, sell, or otherwise provide agriculture products to charitable food assistance organizations.

The Program will also provide funding to local and regional food banks to reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated to such charitable food assistance organizations. The bill aims to help the over one million Virginians that are at risk of hunger while also directly assisting local farmers as well as local and regional foodbanks.

HB 2203 reported out of the House Agriculture, Chesapeake and Natural Resources Committee, 21-1, and the House Appropriations Committee, 21-0. It will likely pass the full House by the end of the week.

SB 1188 reported out of the Senate Agriculture, Conservation and Natural Resources Committee, 15-0, and the Senate Finance Committee, 16-0. It will be taken up by the full Senate sometime this week.

## **KEY POINTS**

- In 2020, local and regional food banks distributed 48 million *more* pounds of food compared to 2019 (a 41% increase) and spent \$31 million more on food purchasing than 2019 (300% increase), due in large part to the effects of COVID-19.
- Governor Northam's proposed budget includes \$600,000 for the VFAP in FY2022. This funding will be used for purchasing from local farmers as well as work in tandem with Virginia's food crop donation tax credit, covering costs

associated with harvesting, processing, packaging, and transporting.

- VFAP is modeled after successful state programs in Pennsylvania, Ohio, Michigan, and others.

# Finance Steering Committee

## **Constitutional amendments under consideration**

Several Constitutional amendments dealing with local property taxes have been introduced during the 2021 Session. Constitutional amendments must pass twice, once before and once after legislative elections, before being placed on the ballot for voter approval.

[SJ 297 \(Bell\)](#) would authorize the General Assembly to exempt or partially exempt from taxation the property owned by a nonprofit organization whose purpose is to provide services to veterans or servicemembers. VACo has registered opposition to this measure. In 2002, voters approved a Constitutional amendment to authorize local governing bodies to provide property tax exemptions for certain nonprofit organizations by ordinance; prior to this time, such exemptions were granted by a super-majority vote of the legislature. Statutory provisions govern the local process for granting these exemptions, including a requirement for the governing body to consider certain criteria in its deliberations, such as the revenue impact to the locality and its taxpayers of authorizing the exemption. VACo believes the current process allows appropriate consideration of community interests and needs and supports retaining this authority to make decisions about local revenues locally. This measure was referred to Senate Finance and Appropriations, where it was passed by indefinitely on January 27.

[HJ 614 \(Mundon King\)](#) would authorize the General Assembly to expand the existing property tax exemption for the surviving spouses of servicemembers killed in action to include surviving spouses of veterans who die while serving or who die from a service-connected disability or illness. While VACo understands the laudable intentions of the legislation, VACo cannot support further expansion of mandatory property tax exemptions without state assistance with the revenue impact to local governments, given the large fiscal impact of the existing exemptions for disabled veterans and their surviving spouses and the surviving spouses of servicemembers killed in action. As discussed earlier in the Legislative Bulletin, VACo has worked to propose budget amendments to study the effects of existing mandatory property tax exemptions and to develop ways to mitigate their fiscal impacts on local governments. HJ 614 has been referred to House Privileges and Elections but not yet heard.

[HJ 616 \(Bourne\)](#) would allow the General Assembly to authorize a local option for a full or partial real property tax exemption for real estate on which affordable housing (as defined by the General Assembly) is constructed. This measure has been referred to House Privileges and Elections but not yet heard.

[SB 1130 \(Reeves\)](#) implements in statute the most recently enacted Constitutional amendment, which was approved by the voters in November 2020 and provides for a personal property tax exemption for one motor vehicle of a veteran who has a 100 percent service-connected, permanent, and total disability.

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### **Local cigarette tax administration revisited**

[SB 1326 \(Hanger\)](#) would bar any locality that did not impose a cigarette tax as of January 1, 2021, from imposing the tax unless the locality is a member of a regional cigarette tax board, as defined in the bill. The regional boards, which would be established by a group of at least 10 member localities, would be tasked with a set of duties regarding cigarette tax administration, to include collecting cigarette taxes from stamping agents and distributing the taxes to the appropriate member locality, enforcing cigarette tax ordinances within the region, and promoting uniformity of cigarette tax ordinances and rates among member localities.

Regional boards were discussed during the workgroup established in 2020 legislation granting counties cigarette taxing authority. VACo opposed mandatory participation in regional boards during these discussions, but recognizes that they may present an attractive option for many jurisdictions to share implementation and enforcement costs and has facilitated information sharing between the one extant regional board (the Northern Virginia Cigarette Tax Board) and counties interested in developing a similar regional body. VACo is working on an alternative approach to this legislation that would create incentives for the development of regional boards, to include potential grant funding and technical assistance to localities interested in pursuing regional implementation of the new cigarette tax authority.

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### **Legislation addresses taxation of room rentals from online travel companies**

[HB 2158 \(Watts\)](#) and [SB 1398 \(Norment\)](#) are similar bills that address a longstanding issue with the collection of taxes on lodging that is arranged through an intermediary. The bills would require that the retail sales and use tax and the transient occupancy taxes be calculated on the price paid by the ultimate consumer for the rental of the space. Currently, these taxes are applied only to the amount paid by the intermediary (such as an online travel company) to the hotel and no taxes are applied to any accommodations fee that may be charged to the consumer. Under HB 2158, the sales taxes, which would be newly applied to the accommodations fee, would be directed to a new Destination Marketing Fund, which would be used by the Virginia Tourism Authority to provide grants to local tourism authorities for marketing Virginia as a tourism destination as well as its own marketing efforts. SB 1398 would direct these funds to a new Tourism Promotion Fund to be used for grants to localities, destination marketing organizations, or regional attractions marketing agencies to promote tourism. As introduced, both bills would specify the use of any transient occupancy tax collected on the accommodations fee; HB 2158 would direct these funds to destination marketing and SB 1398 would require the funds to be used for tourism initiatives. VACo has requested amendments to allow the additional revenues derived from the transient occupancy taxes to flow through the existing distribution mechanisms so that there would be no unintended consequences of disrupting current arrangements for use of transient occupancy taxes.

# General Government Steering Committee

## **Oppose HB 2045 and SB 1440: Erosion of Qualified and Sovereign Immunity for Law Enforcement**

VACo opposes [HB 2045 \(Bourne\)](#) and [SB 1440 \(Surovell\)](#), which erode longstanding principles of governmental immunity.

[HB 2045 \(Bourne\)](#) creates a state civil cause of action for deprivation of any person's constitutional rights, privileges, or immunities by a law enforcement officer, including failure to intervene. The bill creates liability for the law enforcement officer and any public or private employer that employs or contracts with the law enforcement officer. This proposed legislation provides for compensatory damages, punitive damages, attorney's fees and other types of relief and penalties. The bill also provides for individual liability of up to \$25,000 for the law enforcement officer in certain situations. HB 2045 prohibits the use of both sovereign immunity and qualified immunity defenses and prohibits any limitation of liability or damages. This bill creates liability for hiring, supervision, training, retention and use of police officers. The resulting effect of HB 2045 is that it creates a cause of action for every action or interaction a law enforcement officer has.

[SB 1440 \(Surovell\)](#) creates a civil cause of action for the unlawful use of force or failure to intervene by a correctional officer or law enforcement officer who violates [Chapter 7.1 of Title 19.2](#) (regarding use of force, failure to intervene, prohibited practices etc.) during the performance of their duties. An officer's public or private employer is liable if the events occur in the ordinary course of the employers' business. The bill provides for recovery of compensatory damages, punitive damages and attorney's fees and costs, and the language of the bill essentially negates the sovereign immunity defense. The effect of this bill is that a law enforcement officer may be sued for reasonable actions.

HB 2045 was referred to the Civil Subcommittee of the House Committee on Courts, where it has not yet been heard. Likewise, SB 1440 has not yet been heard in the Senate Committee on the Judiciary.

### **KEY POINTS**

- Law Enforcement Hiring, Retention, and Training
  - This would have a chilling effect on the hiring and retention of law enforcement/correctional officers.
  - It will be impossible to train for an unspecified standard of care.
- Drastic Increases in Costs
  - Local Government would be vicariously liable for law enforcement and be subject to greater financial risk and increased frivolous litigation.

- Law enforcement officers would have personal liability.
- It will be extremely costly if not impossible to insure for this new unlimited liability.
- Rippling Effects in the Community
  - There would be a chilling effect on use of law enforcement for private or community events and businesses.
    - This includes private security at churches, high school sporting events, concerts, raceways, etc.
  - Substantial obstacle to the provision of needed public services.
    - In terms of officers doing their jobs, maintaining staffing #s, etc.
    - Officers will be less likely to initiate an encounter with a citizen because of the potential for personal liability.
  - Officers cannot be expected to be legal scholars or think through legal arguments when attempting to perform their duties
- Dramatic erosion of existing laws, which already provide the protections sought by these bills.
  - Officers do not have absolute immunity, and they can be held liable when they violate a clearly established constitutional right.

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## **Helpful Public Notice Bill Sent Back to Committee**

VACo supports [HB 2114 \(Ransone\)](#), which provides that in any instance in which a locality has submitted a timely notice of public hearing to a newspaper published or having general circulation in the locality and the newspaper fails to publish the notice, such locality shall be deemed to have met certain notice requirements so long as the notice was published in the next available edition.

HB 2114 was initially reported from the House Committee on Counties, Cities and Towns by a vote of 17-4, but it was referred back to the Committee on January 26, where it awaits further action.

VACo is grateful to have worked with Delegate Ransone on this legislation and has spoken in favor of the bill.

## **KEY POINTS**

- Current law allows this only for localities located in Planning District 23; Delegate Ransone's bill expands this to all localities in the Commonwealth.
- This bill is supported by VACo and VML as well as the Virginia Press Association.

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## **General Assembly Continues to Debate and Work on Marijuana Legalization Bills**

House and Senate Committees continue to work on and debate two bills proposing marijuana be legalized and commercialized in the Commonwealth. [SB 1406 \(Ebbin\)](#) and [HB 2312 \(Herring\)](#) are the main, administration-endorsed bills dealing with this issue. [SB 1243 \(Morrissey\)](#) was incorporated into SB 1406, and [HB 1815 \(Heretick\)](#) was incorporated into HB 2312.

SB 1406 has so far been heard in the Senate Rehabilitation and Social Services Committee, and is set to be heard next by the Senate Judiciary Committee. From there, it is expected to be referred to the Senate Finance and Appropriations Committee before being heard by the full Senate. HB 2312, on the other hand, started its legislative journey in the House General Laws Committee. From there, the bill will be referred to first the House Courts of Justice Committee and then to the House Appropriations Committee.

SB 1406 and HB 2312 seek to legalize marijuana in Virginia and establish the regulatory framework for commercialization by 2024. The bills, which are several hundred pages in length and sweeping in nature, establish parameters for licensing, permitting, personal consumption, education, health initiatives, tax collection, revenue distribution, and criminal justice reform pertaining to marijuana-related offenses.

VACo has taken no position on SB 1406 and HB 2312, though we have worked with the patrons and Northam Administration officials to ensure local government perspectives and interests are considered and represented in the legislation.

### **KEY POINTS**

- Local government option for legalization must be preserved, either by ordinance or referendum.
- Local government authority – local zoning, local land use authority, local ordinances, and local business regulations – must be preserved.
- The final legislation must include the initially proposed 3% local tax option.

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### **Body-Worn Cameras System Fund Reintroduced**

Senator Bryce Reeves has reintroduced legislation seeking to create a nonreverting fund to assist law enforcement with the deployment of body-worn cameras. [SB 1119 \(Reeves\)](#) creates the “Body-Worn Camera System Fund,” which will provide funding to state and local law enforcement to assist with the costs of purchasing, operating, and maintaining body-worn camera systems.

Senator Reeves previously introduced this bill during the 2020 Special Session. At that time, [the bill](#) unanimously passed the Senate but was not acted upon by the House, leaving it in the House Appropriations Committee.

SB 1119 was reported and rereferred from the Senate Judiciary Committee to the Senate Finance Committee, where it awaits a hearing.

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### **Workers' Compensation Presumptive Illness Legislation**

[HB 2207 \(Jones\)](#) / [SB 1342 \(Vogel\)](#) establishes a presumption that COVID-19 causing the death or disability of firefighters, EMS personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers' Compensation Act. For a presumption to apply, the bill requires a positive diagnostic test for COVID-19 and failure or refusal by a person subject to undergo such immunization shall disqualify the person from any presumption or occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021.

Though the intent of this legislation may be well-meaning, VACo staff has consistently expressed concerns that an expansion of workers' compensation presumptions for COVID-19, in addition to other recent changes last year in the benefits program, could result in substantial fiscal impacts to state and local governments at a time they are struggling to provide essential and expanded services to respond to the impacts of the pandemic.

HB 2207 was reported by the House Labor and Commerce Committee, 21-1, and referred to the House Appropriations Committee's Compensation and General Government Subcommittee, where it was heard on January 26 and is pending further action. SB 1342 reported unanimously from the Senate Commerce and Labor Committee, 15-0, and was referred to the Senate Finance and Appropriations Committee.

VACo strongly urges the General Assembly to consider the use of remaining unobligated or authorized but unallocated federal relief funding for this purpose to ensure that local governments are not hit with this unexpected cost and opposes this legislation unless funding is provided.

### **KEY POINTS**

- Please talk with members of the House Appropriations Committee and the Senate Finance and Appropriations Committee and express that this legislation only be enacted if funded by the Commonwealth.

- The legislation imposes retroactive costs on localities that have not been budgeted. U.S. Department of Treasury guidance allows the Commonwealth to use CARES Act Coronavirus Relief Funds to cover increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020 and ending December 30, 2020.

[SB 1375 \(Saslaw\)](#) establishes a presumption for COVID-19 limited to firefighters and EMS personnel retroactively effective to March 1, 2020. The bill does not specifically require documentation of positive diagnosis. Though the legislation would likely have a smaller fiscal impact than other COVID-19 presumption legislation, VACo has the same concerns regarding the bill, and urges the use of federal relief funding allocated to state should it be enacted. The Senate Commerce and Labor Committee reported the bill unanimously, 15-0, and referred the bill to the Senate Finance and Appropriations Committee.

VACo strongly urges the General Assembly to consider the use of remaining unobligated or authorized but unallocated federal relief funding for this purpose to ensure that local governments are not hit with this unexpected cost and opposes this legislation unless funding is provided.

## **KEY POINTS**

- Please talk with members of the House Appropriations and Senate Finance and Appropriations Committees that this legislation only be enacted if funded by the State.
- The legislation imposes retroactive costs that on localities for which they have not been budgeted. U.S. Department of Treasury guidance allows the Commonwealth to use CARES Act Coronavirus Relief Funds to cover increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020 and ending December 30, 2020.

[HB 1818 \(Heretick\)/SB 1275 \(Marsden\)](#) add salaried or volunteer emergency medical services (EMS) personnel to the list of persons to whom, after five years of service, the occupational disease presumption for death caused by hypertension or heart disease applies. As originally written, these bills would have mandated local governments to cover this presumption. The bills have been amended to add the presumption for both salaried and volunteer EMS personnel operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions. SB 1275 differs from HB 1818 in that it specifically contains language that requires any local resolution to address minimum hours worked. As amended, this language retains flexibility to local governments to determine whether to add these presumptions, the types of employees covered, and any additional requirements in regard to service hours.

HB 1818 reported from the House Labor and Commerce Committee unanimously, 22-0, and was referred to the House Appropriations Committee's Compensation and General Government Subcommittee. SB 1275 reported unanimously from the Senate Commerce and Labor Committee, 15-0, and was referred to the Senate Finance and Appropriations Committee.

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## **Support Needed for Additional Resources for Elections Administration**

Several bills under consideration deal with absentee voting and the processing of absentee ballots and would make permanent some of the temporary measures passed during the 2020 special session that applied to the November 2020 general election.

[HB 1888 \(VanValkenburg\)](#), the House's omnibus absentee voting bill, would require all localities to establish a central absentee precinct; require registrars to report the number and results of absentee ballots cast early in person separately from all other absentee ballots; require the establishment of drop-off locations at registrars' offices, satellite voting locations, and polling places; allow for a "cure" process for absentee voters who may have made errors on the ballot envelope; and require absentee ballots to be sent with prepaid postage. The legislation is accompanied by a \$12 million budget amendment that would provide grants to assist with implementation of these proposals; in testimony on the bill, VACo encouraged House Privileges and Elections Committee members to provide the necessary resources to implement these proposals, in particular the costs for prepaid postage, which would be a new ongoing expense for localities.

Please encourage members of the [House Appropriations Committee](#) and [Senate Finance and Appropriations Committee](#) to prioritize resources for election administration in their budget deliberations.

### **KEY POINTS**

- The state provided funding to reimburse localities for the costs of prepaid postage for the November 2020 general election and should continue to fund these costs if prepaid postage is required on an ongoing basis. Based on preliminary figures from the Department of Elections, localities requested approximately \$940,000 in reimbursements for the November 2020 election.
- The federal funding provided through the CARES Act for election assistance provided helpful assistance with the additional costs associated with conducting elections safely during the pandemic, but this one-time money cannot substitute for the ongoing state-local funding partnership.

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## Virginia Voting Rights Act

[HB 1890 \(Price\)](#) and [SB 1395 \(McClellan\)](#) impose state oversight over certain local voting practices. Substitute versions of both bills considered in subcommittee and full committee, respectively, authorize the Attorney General to file a civil action in circuit court if he or she has reasonable cause to believe that a violation of an election law has occurred; the court may award preventive relief, assess a civil penalty, award a prevailing plaintiff reasonable attorney fees and costs, and award other relief as appropriate, including compensatory and punitive damages.

Under the bills, a locality meeting a certain population threshold of individuals who are members of a language minority and are unable to speak or understand English enough to participate in the electoral process must provide voting or election materials in the language of the applicable language minority group (which is required under federal law), as well as providing translation services at polling places.

The bills offer two options for advance approval of certain “covered practices,” which includes any change to the method of election of members of a governing body by adding at-large seats or converting district seats to at-large or multi-member districts; any change to the boundaries of a covered jurisdiction that reduces minority voting age population by a certain percentage; any change to the boundaries of election districts or wards (including redistricting); any change that restricts the provision of interpreter services or limits the distribution of voting materials in languages other than English; and any change that reduces the number of or consolidates or relocates polling places, except in certain emergency circumstances.

Prior to implementing any covered practice, the governing body must make information about the proposed covered practice available on the locality’s website and provide opportunity for at least 30 days of public comment (the initial notice must be made at least 45 days in advance of the last date for public comment). Following the initial public comment period (or periods, if changes are made and a revised practice is re-advertised), a 30-day waiting period is required, during which time any person who will be affected by the covered practice may challenge it in the circuit court. In lieu of this process, the locality may seek a certification of no objection from the Attorney General, similar to the federal preclearance process that was in effect in Virginia prior to the 2013 U.S. Supreme Court decision in *Shelby County v. Holder*. A certification of no objection will be deemed to have been issued if the Attorney General does not issue an objection within 60 days of submission. However, the Attorney General’s lack of objection does not bar subsequent litigation to enjoin enforcement of the practice.

The bills bar at-large elections from being imposed in a manner that affects the ability of members of a protected class, defined in the House bill as a group of citizens protected from discrimination based on race or color, membership in a language or minority group, or being of Hispanic or Latino origin, and in the Senate bill as a group of citizens protected from discrimination based on race or color or membership in a language minority group, to elect candidates of choice or to influence the outcome of an election as a result of the dilution or abridgement of their rights. The bills authorize members of

a protected class in a locality that uses at-large voting to initiate a cause of action in circuit court if a violation is alleged.

The bills create civil causes of action in addition to existing criminal penalties for voter intimidation and communication of false information to a voter.

VACo has spoken in opposition to these measures due to their exposure of counties to potentially costly litigation.

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## **Other Elections Bills of Interest**

[HB 1968 \(Bagby\)](#) authorizes in person absentee voting on Sundays.

[HB 2020 \(Helmer\)](#) bars a party nomination method from being used if it will have the practical effect of excluding certain voters from participating due to their inability to attend meetings, including active duty servicemembers, individuals temporarily residing out of the country, students, persons with disabilities, or individuals who have or may have been exposed to certain communicable diseases. The bill takes effect January 1, 2024, and does not apply to special elections or situations in which no candidate files required paperwork on time.

[HB 2198 \(Convirs-Fowler\)](#) provides that in a jurisdiction that elects members of its governing body or school board from districts, each district representative shall be elected by the voters in that district and not by the voters at large.

[SB 1148 \(Kiggans\)](#) changes the date of the primary election held in June from the second to the third Tuesday. This bill was reported by Senate Privileges and Elections and is headed to the Senate floor.

[SB 1157 \(Spruill\)](#) shifts municipal elections from May to November.

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## **Freedom of Information Act (FOIA) Bills of Interest**

[HB 2025 \(Gooditis\)](#) – Virginia Freedom of Information Act; record exclusion for personal contact information provided to a public body.

VACo supports this bill that provides that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members is excluded from the mandatory disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. Current law provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body not to disclose his personal contact



information in order for the information to be exempt from mandatory disclosure. HB 2025 was reported from the House 99-0.

[HB 1931 \(Levine\)](#) – Virginia Freedom of Information Act; electronic participation in meetings.

VACo supports this bill giving more flexibility to members of public bodies to participate remotely. This bill authorizes a member of a public body to participate in a public meeting through electronic communication means if on or before the day of the meeting, a member of the public body notifies the chair that such member is unable to attend the meeting due to a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance. The bill also clarifies that participation in a meeting electronically by a member of a public body due to the inability to attend because of a personal matter is limited each calendar year to two such meetings, or 25 percent of the meetings held that calendar year, whichever is greater. HB 1931 bill passed the House, 99-0.

[SB 1271 \(McPike\)](#) – Virginia Freedom of Information Act; meetings held through electronic communication means during a state of emergency.

VACo supports this bill which clearly states and allows a public body, or a joint meeting thereof, to meet by electronic communication means without a quorum of the public body physically assembled at one location when the governor or a locality in which the public body is located has declared a state of emergency, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. Finally, the bill requires public bodies meeting through electronic communication means during a local or state declaration of a state of emergency to (a) make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body, and (b) provide the public with the opportunity to comment at such meetings when public comment is customarily received. SB 1271 passed the Senate, 39-0.



# Health and Human Resources

## Steering Committee

### **Children's Services Act Legislation Implements JLARC Recommendations Regarding Private Special Education Day Placements**

A series of bills and budget amendments have been introduced to implement recommendations from the Joint Legislative Audit and Review Commission (JLARC) report on the Children's Services Act (CSA), which was released in November 2020. Key legislative vehicles are [HB 2117 \(VanValkenburg\)](#) and [SB 1313 \(Mason\)](#), which would provide some additional flexibility in the use of CSA funds to provide services within public schools.

As reported by the Senate Education and Health Committee and referred to the Senate Finance and Appropriations Committee, SB 1313 would allow CSA funds to be used to provide transitional services within the public school environment to serve children who were placed in private school programs for at least six months. These transitional services could be provided for up to 12 months and could include additional staffing, professional development and training, behavioral health services, speech and occupational therapy, or other services as identified in the child's individualized education program. The bill also includes an enactment clause directing the convening of a stakeholder workgroup to develop a detailed plan to transfer private special education funding to the Department of Education; the workgroup is directed to include in its plan components such that the funding serves children with the most severe disabilities who are at risk of or in an out-of-school placement and the transfer minimizes the fiscal impact of the new funding policy on localities. The plan is due to the money committees by November 1, 2021. HB 2117, as recommended for reporting by a subcommittee of House Education, is in the same posture. VACo has historically supported some flexibility in the use of CSA funds in order to enhance the ability of local school divisions to serve children with disabilities and continues to work with both patrons on the language of these bills to ensure clarity in drafting and to encourage a deliberate approach to the workgroup, to include examination of successful public programs.

A related bill, [SB 1133 \(Suetterlein\)](#), has also been referred to Senate Finance and Appropriations and would provide similar flexibility in use of CSA funds for transition services, but would allow CSA funds to be used for ongoing services beyond the 12-month limit in SB 1313, specifying that such funding may not exceed the cost of placement in a private school educational program. The bill includes the same enactment clause regarding transfer of funding to the Department of Education, and includes an additional clause directing the implementation of several pilot programs to identify resources, services, and supports that would be required to transition students from private school to the least restrictive public school setting, and to recommend a

process for redirecting funds to provide the identified resources in the appropriate public school setting.

Additional legislation and budget amendments offered regarding JLARC recommendations include the following:

- [HB 2212 \(Plum\)](#), which is before the House Appropriations Health and Human Resources Subcommittee, adds several requirements to the list of responsibilities of the Director of the Office of Children’s Services: (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance; and (iii) working with local programs that are consistently underperforming to develop a corrective action plan.
- [HB 2289 \(Austin\)](#), which is before a subcommittee of House Health, Welfare, and Institutions, would allow the use of CSA funds for transitional services for children returning from private placements and also allow funds to be used to support services for any child whose individualized education program team has determined that an out-of-school placement could be prevented by the provision of specialized services and supports delivered in the public school setting, if these services are estimated to have an annual cost that is more than three times the average annual cost of educating in a public school setting a student who does not require special education services and supports.
- [Item 138 #1h \(Plum\)](#) directs the Department of Education to develop a plan for administration of CSA funds for students with disabilities, including use of these funds to provide services in public schools.
- [Item 138 #2h \(Plum\)](#) and similar [Item 138 #8s \(Suetterlein\)](#) direct the Department of Education to report on certain aspects of private day school staffing and accreditation.
- [Item 138 #3h \(Plum\)](#) and [Item 138 #6s \(Suetterlein\)](#) direct the Board of Education to promulgate regulations regarding seclusion and restraint in private day schools.
- [Item 293 #1h \(Plum\)](#) requires local CSA programs to serve children in the non-mandated eligibility category.
- [Item 293 #2h \(Plum\)](#) directs the Office of Children’s Services to submit a plan to modify its staffing and operations to enhance its oversight of local CSA programs.
- [Item 293 #3h \(Plum\)](#) directs the Office of Children’s Services to work with the Department of General Services and the Office of the Attorney General to develop statewide contracts to be made available to local programs where beneficial and feasible. VACo has historically supported this concept.

- [Item 293 #5h \(Plum\)](#) bars receipt of CSA funding by private day schools unless they are licensed by the Virginia Department of Education.

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## **COVID-19 vaccination legislation passes in each chamber**

Two bills introduced last week that seek to improve the infrastructure for the administration of COVID-19 vaccinations are advancing under expedited consideration. [HB 2333 \(Bagby\)](#) authorizes eligible health care providers, defined in the bill to include individuals currently licensed by a health regulatory board or with a license in good standing within the 10 years immediately prior to lapsing, currently-licensed emergency medical services providers or those with a license in good standing within the 10 years immediately prior to lapsing, and any health professions student in good academic standing who is properly trained, to administer the vaccine during the state of emergency declared by the Governor. The bill directs the Department of Health (VDH) to establish a program to enable eligible providers to volunteer to administer the vaccine and provides liability protections for the providers. The legislation directs VDH to establish a process by which entities such as hospitals, pharmacies, and institutions of higher education may volunteer their facilities as vaccine administration sites, which would be approved by the state Health Commissioner in collaboration with local departments of health. The bill authorizes localities with fire departments or emergency medical services departments employing full-time EMTs or paramedics to establish vaccine administration clinics, and provides liability protections for the locality and department medical director. HB 2333 was filed on Friday, January 22, heard in committee on Tuesday, January 26, and passed the House later that day. Similar legislation, [SB 1445 \(Dunnavant\)](#), was filed on January 19, heard in committee January 21, and passed the Senate January 22. Both bills contain an emergency clause.

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## **Telemedicine bills advancing**

[HB 1987 \(Adams, D.M.\)](#) directs the state plan for medical assistance services to include coverage for remote patient monitoring services provided via telemedicine for certain high-risk populations; these services would include monitoring of certain clinical data such as blood pressure and blood glucose. The bill directs the Department of Medical Assistance Services to adopt regulations for reimbursement for telemedicine services delivered through audio-only telephonic means. The bill also sets out requirements for prescribing certain controlled substances via telemedicine. [SB 1338 \(Barker\)](#) is similar (though it does not include the provisions regarding prescription of controlled substances). HB 1987 has been reported from House Health, Welfare, and Institutions, and is before a subcommittee of House Appropriations. SB 1338 has been reported from Senate Education and Health and is before Senate Finance and Appropriations. VACo has registered its support for these bills in keeping with its longstanding position in support of the flexible use of telemedicine services to meet the needs of residents.

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## **Legislation codifies funding formula for local health departments**

[HB 1963 \(Bagby\)](#) would place in Virginia Code the long-standing funding formula for the Cooperative Health Budget, which is the state-local funding partnership supporting local health departments. This funding formula was originally established in 1954 and slightly revised in 1964; it established a range of local contributions, with the minimum and maximum local matches set at 18 and 45 percent, respectively. The formula was revised in the early 1990s, in keeping with the recommendations of a 1988 JLARC study, to base local contributions on local revenue capacity and median household income (rather than the estimated true value of real property, as had previously been used to determine local shares), but retained the 18-45 percent range of local contributions. HB 1963, which has been reported from House Health, Welfare, and Institutions and is now before House Appropriations, would incorporate the elements of the funding formula in the Code and also direct the Virginia Department of Health to review the local matching amounts biennially and determine whether these amounts should be revised as a result of changes to the locality's revenue generation capacity; this review would be reported to the Governor and the General Assembly. This statutory change would accompany an initiative in the Governor's budget to update the funding formula with current revenue generation capacity, with a one-year hold-harmless for localities that would experience an increase in local match rates; updated data had not been incorporated into the formula for many years.

# Transportation Steering Committee

## **VACo Supports Local Government Authority Speed Limit Bill**

[HB 1903 \(Carr\)](#) authorizes local governing bodies to adopt ordinances to reduce the speed limit to less than 25 miles per hour, but not less than 15 miles per hour, on any highway within its boundaries that is located in a business district or residence district provided the reduced speed limit is indicated by lawfully placed signs. If enacted, this legislation will enable local governments to respond to the needs of their communities more effectively and hopefully help reduce traffic incidents and pedestrian fatalities. The bill passed the House, 93-6, and was referred to the Senate Transportation Committee.

## **VACo Supports Transportation Construction Limit Increase Bill**

[HB 1813 \(Krizek\)](#) increases the dollar limit from \$600,000 to \$700,000 on the value of highway maintenance and construction projects eligible to be performed by state or local employees. This Administration-supported bill updates the project dollar limit to reflect inflation and would provide statewide benefits by allowing VDOT and locally administered projects, where VDOT has delegated the administration of certain transportation projects, to proceed “in-house” without requiring procurement of an outside contract. This should allow for quicker completion of smaller projects such as minor bridge repairs, thus increasing the number of projects that can be performed. The bill passed the House, 79-20 and was referred to the Senate Transportation Committee.

## **VACo Supports New River Valley Passenger Rail Station Authority Bills**

[HB 1893 \(Hurst\)](#) / [SB 1212 \(Edwards\)](#) authorize the creation of the New River Valley Passenger Rail Station Authority is meant to facilitate the expansion of passenger rail services from Roanoke to Christiansburg and additional train service to Roanoke. Governor Ralph Northam proposed \$50 million general funds in FY 2022 be allocated to the Commonwealth Transportation Board to achieve the proposed expansion of service. HB 1893 was reported unanimously by the House Appropriations Committee, 21-0, and was read for the first time on the House Floor. SB 1422 reported unanimously from the Senate Transportation Committee, 14-0, and was referred to the Senate Finance and Appropriations Committee.

## **VACo Supports EDA Bonded Projects Repayment Bill**

[HB 2253 \(Wampler\)](#) imposes a 48-month moratorium on the repayment of funds allocated to a locality for a bonded project pursuant to the Economic Development Access (EDA) program, provided that the conditions of the Commonwealth Transportation Board’s economic development access policy are met. The EDA program is a state-funded incentive to assist localities in providing adequate road access to new and expanding manufacturing and processing companies, research and development facilities, distribution centers, regional service centers, corporate headquarters, government installations, and other basic employers with at least 51% of the company’s revenue generated from outside the Commonwealth. EDA is administered by the Virginia Department of Transportation. The bill was recommended to report by the

House Transportation Committee's Transportation Systems Subcommittee and was referred to the House Appropriations Committee unanimously, 9-0, and has been heard by the House Transportation Committee.

### **Transportation Project Design Resiliency Requirement Bills**

[HB 2071 \(Convirs-Fowler\)](#) / [SB 1350 \(Lewis\)](#) require that the Office of Intermodal Planning and Investment make public whether a transportation project or strategy evaluated in the Six-Year Improvement has been designed to be resilient and that the Commissioner of Highways ensure resiliency is incorporated into the design standards for new construction projects. HB 2071 reported from the House Transportation Committee, 14-5. SB 1350 reported from the Senate Transportation Committee, 12-0-2, and was referred to Senate Finance and Appropriations Committee.

### **Transportation Project Design Resiliency Requirement Bills**

[HB 1910 \(Cole, J.G.\)](#) authorizes two or more adjacent counties or cities to form a regional transportation authority to engage in regional transportation projects. The bill sets forth the procedures for forming such authority and determining the membership of its governing board. Ordinances adopted by each member of such authority would set forth the local taxes, fees, and revenues to be contributed by each locality to such authority. The bill has been assigned to the House Transportation Committee's Transportation Systems Subcommittee.

### **Crosswalk Redesign Bill**

[HB 1841 \(Keam\)](#) directs the Commissioner of Highways to convene a workgroup to determine whether there should be model policies for crosswalk design and installation in Virginia. As originally written, this legislation would have required new crosswalks and crosswalks receiving future maintenance to be in a zebra pattern and have warning tiles at each end, with additional specifications, which would have imposed additional costs on local governments, including the two counties that maintain their own roads, and preempted local authority to determine the best management of roads in compliance with the Americans with Disabilities Act and guidelines from the Federal Highway Administration's Manual on Uniform Traffic Control Devices. VACo expressed concerns to the patron who graciously modified the original bill language. The bill passed the House unanimously, 99-0.

### **U.S. Route 1 Renaming Bill**

[HB 2075 \(Cole, J.G.\)](#) renames any sections of U.S. Route 1 in Virginia currently designated as "Jefferson Davis Highway" to "Emancipation Highway." The bill has a delayed enactment date of January 1, 2022, only applies to sections of the highway with the current designation of "Jefferson Davis Highway" and does not affect any other memorial designation applied to the highway. Localities which have already changed the name of the highway or will do so before the enactment date either through local action, through successful petition to the Commonwealth Transportation Board, or through act of the General Assembly, will not be impacted. The bill reported from the House Transportation Committee, 13-6, and was referred to the House Appropriations Committee's Transportation and Public Safety Subcommittee.

## **Bicycle Operation Bills**

[HB 2262 \(Hurst\)](#) / [SB 1263 \(Morrisey\)](#) permit operators of bicycles to treat a stop sign as a yield sign in certain situations. The bills require the driver of a motor vehicle to change lanes when overtaking a bicycle or certain other vehicles when the lane of travel is not wide enough for the overtaking motor vehicle to pass at least three feet to the left of the overtaken vehicle. The bills also remove the limitations on riding bicycles and certain other vehicles two abreast. HB 2262 was recommended to report by the House Transportation Committee's Motor Vehicles Subcommittee, 8-2. SB 1263 reported from the Senate Transportation Committee, 11-4.